



LODI CITY COUNCIL

Carnegie Forum
305 West Pine Street, Lodi

AGENDA – REGULAR MEETING

Date: November 16, 2005

Time: Closed Session 6:00 p.m.
Regular Meeting 7:00 p.m.

For information regarding this Agenda please contact:

Susan J. Blackston

City Clerk

Telephone: (209) 333-6702

***NOTE:** All staff reports or other written documentation relating to each item of business referred to on the agenda are on file in the Office of the City Clerk and are available for public inspection. If requested, the agenda shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. To make a request for disability-related modification or accommodation contact the City Clerk's Office as soon as possible and at least 24 hours prior to the meeting date.*

C-1 Call to Order / Roll Call

C-2 Announcement of Closed Session

- a) Conference with Blair King (Acting Labor Negotiator) regarding International Brotherhood of Electrical Workers, pursuant to Government Code §54957.6
- b) Actual litigation: Government Code §54956.9(a); one case; People of the State of California; and the City of Lodi, California v. M & P Investments, et al.; United States District Court, Eastern District of California, Case No. CIV-S-00-2441 FCD JFM
- c) Actual litigation: Government Code §54956.9(a); one case; Hartford Accident and Indemnity Company, et al. v. City of Lodi, et al., Superior Court, County of San Francisco, Case No. 323658
- d) Prospective sale or lease of real property located at 2 East Lodi Avenue, Lodi, CA (APN 045-310-01), known as Maple Square, owned by the City of Lodi, California; Government Code §54956.8

C-3 Adjourn to Closed Session

NOTE: THE FOLLOWING ITEMS WILL COMMENCE NO SOONER THAN 7:00 P.M.

C-4 Return to Open Session / Disclosure of Action

A. Call to Order / Roll call

B. Invocation – Major Frank Severs, Lodi Salvation Army

C. Pledge of Allegiance

D. Presentations

- D-1 Awards
 - a) Presentation of Community Improvement Award (CD)
- D-2 Proclamations – None
- D-3 Presentations – None

E. Consent Calendar (Reading; comments by the public; Council action)

- E-1 Receive Register of Claims in the amount of \$5,647,448.23 (FIN)
- E-2 Approve minutes (CLK)
 - a) October 5, 2005 (Regular Meeting)
 - b) October 5, 2005 (Special Joint Meeting w/Redevelopment Agency)
 - c) October 19, 2005 (Regular Meeting)

- Res. E-3 Adopt resolution approving the City of Lodi annual investment policy and internal control guidelines (FIN)
- Res. E-4 Adopt resolution approving specifications, authorizing bids for Blakely Pool Alarm, 1050 S. Stockton Street, and authorizing the City Manager to award or reject the contract up to an estimated \$16,000 (PR)
- Res. E-5 Adopt resolution approving the purchase of mobile computing equipment acquired through the Code Enforcement Grant Program and appropriating funds (\$36,695.50) (CD)
- E-6 Receive for informational purposes Contract Change Order No. 1 – Lodi Avenue Overlay (Lower Sacramento Road to Ham Lane) / Pacific Avenue Extension (Walnut Street to Lodi Avenue) (\$41,742) (PW)
- E-7 Accept improvements under contract for Lighted Crosswalk System Project, Lockeford Street at Calaveras Street (PW)
- Res. E-8 Adopt resolution accepting improvements under contract for Streetlight Completion Project – Phase IV (EUD)
- Res. E-9 Adopt resolution accepting improvements in Woodhaven Park, Unit No. 3, Tract 3187 (PW)
- Res. E-10 Adopt resolution accepting \$100,000 from San Joaquin County via the State of California's Supplemental Law Enforcement Services Fund (PD)
- Res. E-11 Adopt resolution authorizing the City Manager to approve service agreement with the San Joaquin Partnership for economic development attraction and retention support (\$27,000) (CM)
- Res. E-12 Adopt resolution supporting the establishment of the San Joaquin Valley Veterans Administration Regional Medical Clinic at French Camp (CM)

F. Comments by the public on non-agenda items

THE TIME ALLOWED PER NON-AGENDA ITEM FOR COMMENTS MADE BY THE PUBLIC IS LIMITED TO FIVE MINUTES.

The City Council cannot deliberate or take any action on a non-agenda item unless there is factual evidence presented to the City Council indicating that the subject brought up by the public does fall into one of the exceptions under Government Code Section 54954.2 in that (a) there is an emergency situation, or (b) the need to take action on the item arose subsequent to the agenda's being posted.

Unless the City Council is presented with this factual evidence, the City Council will refer the matter for review and placement on a future City Council agenda.

G. Comments by the City Council Members on non-agenda items

H. Comments by the City Manager on non-agenda items

I. Public Hearings

- Res. I-1 Public hearing to consider an appeal of the Planning Commission's decision to deny the request of Kirk Smith on behalf of Velvet Grill for a Use Permit (U-05-011) to allow a Type 41 Alcoholic Beverage Control license for on-sale beer and wine with a restaurant at 1421 South Ham Lane, Suite A (CD)

J. Communications

- J-1 Claims filed against the City of Lodi – None
- J-2 Appointments
 - a) Appointment to the Lodi Arts Commission (CLK)
- J-3 Miscellaneous – None

K. Regular Calendar

- K-1 Review Regional Transportation Impact Fee report and provide direction regarding future implementation (PW)
- Res. K-2 Adopt resolution establishing Market Cost Adjustments to be effective December 2, 2005 (EUD)
- K-3 Review conceptual Water Meter Retrofit Program (PW)
- K-4 Approve "Will Serve" letter for potential Northern California Power Agency Plant project at White Slough Water Pollution Control Facility (PW)
- K-5 Review proposed wastewater capacity fee, provide direction, and set public hearing for January 4, 2006, to consider adoption of the fee (PW)
- K-6 Approve expenses incurred by outside counsel relative to the Environmental Abatement Program litigation (\$55,420.03) (CA)

L. Ordinances

- Ord. L-1 Ordinance No. 1766 entitled, "An Ordinance of the Lodi City Council Amending the Official
(Adopt) District Map of the City of Lodi and Thereby Rezoning 1380 Westgate Drive (APN 027-420-09) from R-2, Residential Single Family, to PD(37), Planned Development Number 37, for Luca Place" (CLK)

M. Adjournment

Pursuant to Section 54954.2(a) of the Government Code of the State of California, this agenda was posted at least 72 hours in advance of the scheduled meeting at a public place freely accessible to the public 24 hours a day.

Susan J. Blackston
City Clerk



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Presentation of Community Improvement Award

MEETING DATE: November 16, 2005

PREPARED BY: Community Improvement Manager

RECOMMENDED ACTION: That the Mayor present the Community Improvement Award to Ben's Appliance Lighthouse and Hearth, Inc., for their commercial property at 1535 S. Cherokee Lane.

BACKGROUND INFORMATION: This property at 1535 S. Cherokee Lane, owned by Ben & Geraldine Osburn, is the location of Ben's Appliance Lighthouse & Hearth. At this location since 1968 when it opened as Ben's Electric, the business has most recently undergone a facelift as the owner's have done a complete façade improvement and installed new signage.

Over the years, the business has expanded to include a showroom for the sale of appliances, as well as fireplaces and heating equipment. Most recently, they have expanded their offerings to include cabinets and countertops for kitchen remodeling projects. Located on one of the major entrances to Lodi, Ben Osburn and his son John, are providing not only a business to serve the booming home improvement industry, but also a dramatic commercial improvement at their property that will be seen by thousands as they enter our city from the south. They have provided improvements which compliments the city's Revitalization Project of Cherokee Lane and matches other commercial improvements being done in the area.

For their work in improving this property and the positive impact that it has had on the surrounding neighborhood, the Lodi Improvement Committee felt that this property, this business and the Osburns were well-deserving of the Community Improvement Award.

FISCAL IMPACT: None

FUNDING AVAILABLE: None

Joseph Wood
Community Improvement Manager

cc: Lodi Improvement Committee
Ben & John Osburn

APPROVED: _____
Blair King, City Manager





CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Receive Register of Claims Dated November 01, 2005 in the Amount of \$5,647,448.23

MEETING DATE: November 16, 2005

PREPARED BY: Management Analyst

RECOMMENDED ACTION: That the City Council receives the attached Register of Claims. The disclosure of the PCE/TCE expenditures is shown as a separate item on the Register of Claims.

BACKGROUND INFORMATION: Attached is the Register of Claims in the amount of \$5,647,448.23 dated 11/01/2005 which includes PCE/TCE payments of \$0.00

FISCAL IMPACT: n/a

FUNDING AVAILABLE: As per attached report.

James R. Krueger, Finance Director

JRK/kb

Attachments

APPROVED: _____
Blair King, City Manager

Accounts Payable	Page	-	1
Council Report	Date	- 11/01/05	
As of	Fund	Name	Amount
Thursday			

10/20/05	00100	General Fund	607,060.67
	00120	Vehicle Replacement Fund	5,127.00
	00123	Info Systems Replacement Fund	4,723.76
	00160	Electric Utility Fund	43,496.55
	00161	Utility Outlay Reserve Fund	307.72
	00164	Public Benefits Fund	4,242.77
	00170	Waste Water Utility Fund	8,448.68
	00171	Waste Wtr Util-Capital Outlay	7.34
	00172	Waste Water Capital Reserve	3.78
	00180	Water Utility Fund	8,330.91
	00181	Water Utility-Capital Outlay	175.71
	00182	IMF Water Facilities	6.40
	00210	Library Fund	12,261.70
	00234	Local Law Enforce Block Grant	183.66
	00235	LPD-Public Safety Prog AB 1913	56.12
	00270	Employee Benefits	33,023.65
	00310	Worker's Comp Insurance	6,416.17
	00325	Measure K Funds	70,452.29
	00329	TDA - Streets	43,200.00
	00340	Comm Dev Special Rev Fund	38,805.03
	00459	H U D	471.30
	01241	LTF-Pedestrian/Bike	4,791.10
	01250	Dial-a-Ride/Transportation	163,931.66
	01410	Expendable Trust	2,234.52

Sum			1,057,758.49
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Total for Week

Sum			1,057,758.49
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Accounts Payable	Page	-	1
Council Report	Date	- 11/01/05	
As of	Fund	Name	Amount
Thursday			

10/27/05	00100	General Fund	524,974.21
	00160	Electric Utility Fund	3,925,506.93
	00161	Utility Outlay Reserve Fund	438.97
	00164	Public Benefits Fund	2,544.69
	00170	Waste Water Utility Fund	29,364.14
	00171	Waste Wtr Util-Capital Outlay	255.00
	00172	Waste Water Capital Reserve	11,155.36
	00180	Water Utility Fund	13,544.05
	00181	Water Utility-Capital Outlay	536.18
	00184	Water PCE-TCE-Settlements	1,825.00
	00210	Library Fund	4,815.33
	00270	Employee Benefits	9,495.80
	00300	General Liabilities	500.00
	00310	Worker's Comp Insurance	19,766.18
	00340	Comm Dev Special Rev Fund	3,670.38
	01212	Parks & Rec Capital	2,520.00
	01214	Arts in Public Places	20,000.00
	01250	Dial-a-Ride/Transportation	4,512.48
	01410	Expendable Trust	14,265.04

Sum			4,589,689.74
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Total for Week

Sum			4,589,689.74
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Payroll	Pay Per Date	Co	Name	Gross Pay
Regular	10/23/05	00100	General Fund	821,517.55
		00160	Electric Utility Fund	152,661.23
		00164	Public Benefits Fund	5,023.94
		00170	Waste Water Utility Fund	71,727.47
		00180	Water Utility Fund	9,217.51
		00210	Library Fund	31,000.01
		00235	LPD-Public Safety Prog AB 1913	239.80
		00340	Comm Dev Special Rev Fund	34,845.53
		01250	Dial-a-Ride/Transportation	2,852.17

Pay Period Total:				
Sum				1,129,085.21
Retiree	11/30/05	00100	General Fund	32,849.97

Pay Period Total:				
Sum				32,849.97



TM

CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Approve Minutes
a) October 5, 2005 (Regular Meeting)
b) October 5, 2005 (Special Joint Meeting w/Redevelopment Agency)
c) October 19, 2005 (Regular Meeting)

MEETING DATE: November 16, 2005

PREPARED BY: City Clerk

RECOMMENDED ACTION: That the City Council approve the following minutes as prepared:
a) October 5, 2005 (Regular Meeting)
b) October 5, 2005 (Special Joint Meeting w/Redevelopment Agency)
c) October 19, 2005 (Regular Meeting)

BACKGROUND INFORMATION: Attached are copies of the subject minutes, marked Exhibits A through C.

FISCAL IMPACT: None.

FUNDING AVAILABLE: None required.

Susan J. Blackston
City Clerk

SJB/JMP

Attachments

APPROVED: _____
Blair King, City Manager

**LODI CITY COUNCIL
REGULAR CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, OCTOBER 5, 2005**

C-1 CALL TO ORDER / ROLL CALL

The City Council Closed Session meeting of October 5, 2005, was called to order by Mayor Beckman at 6:45 p.m.

Present: Council Members – Hansen, Johnson, Mounce, and Mayor Beckman

Absent: Council Members – Hitchcock*

Also Present: City Manager King, City Attorney Schwabauer, and City Clerk Blackston

*NOTE: Mayor Pro Tempore Hitchcock was absent due to her attendance at the League of California Cities annual conference in San Francisco.

C-2 ANNOUNCEMENT OF CLOSED SESSION

- a) Conference with Blair King, City Manager, and/or Jere Kersnar, Interim Deputy City Manager (Acting Labor Negotiators), regarding International Brotherhood of Electrical Workers, Lodi Police Officers Association, and Mid-Management Employees pursuant to Government Code §54957.6

C-3 ADJOURN TO CLOSED SESSION

At 6:45 p.m., Mayor Beckman adjourned the meeting to a Closed Session to discuss the above matter.

The Closed Session adjourned at 7:02 p.m.

C-4 RETURN TO OPEN SESSION / DISCLOSURE OF ACTION

At 7:05 p.m., Mayor Beckman reconvened the City Council meeting, and City Attorney Schwabauer disclosed that there was no reportable action taken in closed session.

A. CALL TO ORDER / ROLL CALL

The Regular City Council meeting of October 5, 2005, was called to order by Mayor Beckman at 7:05 p.m.

Present: Council Members – Hansen, Johnson, Mounce, and Mayor Beckman

Absent: Council Members – Hitchcock*

Also Present: City Manager King, City Attorney Schwabauer, and City Clerk Blackston

*NOTE: Mayor Pro Tempore Hitchcock was absent due to her attendance at the League of California Cities annual conference in San Francisco.

B. INVOCATION

The invocation was given by Ken Owen, Christian Community Concerns.

C. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Beckman.

D. AWARDS / PROCLAMATIONS / PRESENTATIONS

D-1 Awards – None

D-2 (a) Mayor Beckman presented a proclamation to Christopher Olson, representing Ameriprice Financial, proclaiming the week of October 2 – 8, 2005, as “Financial Planning Week” in the City of Lodi.

- D-2 (b) Mayor Beckman presented a proclamation to Diane Amaral, Arts Education Assistant with the City of Lodi, proclaiming the month of October 2005 as "National Arts and Humanities Month" in the City of Lodi.
- D-2 (c) Mayor Beckman presented a proclamation to Paula Grech, representing the San Joaquin County Women's Center, proclaiming the month of October 2005 as "Domestic Violence Awareness Month" in the City of Lodi.
- D-3 (a) John Byrd, President of the Lodi Area All Veterans Plaza Foundation, presented a check in the amount of \$10,000 to Mayor Beckman toward the quarterly payment on loan from the City.
- D-3 (b) Donna Phillips reported that "Friends of Lodi Lake" was formed in 1995. She thanked founders Maryann Porterfield and Barbara Brown. Ms. Phillips presented a check in the amount of \$2,500 as adonation toward the City's Centennial tree planting project and asked that the money be used toward planting 24" box trees at Lodi Lake. In addition, she commented that the area known as "Pigs Lake" is eroding and she presented a check in the amount of \$500 toward a fund to raise awareness of this issue.

E. CONSENT CALENDAR

In accordance with the report and recommendation of the City Manager, Council, on motion of Council Member Mounce, Johnson second, approved the following items hereinafter set forth by the vote shown below:

Ayes: Council Members – Hansen, Johnson, Mounce, and Mayor Beckman

Noes: Council Members – None

Absent: Council Members – Hitchcock

- E-1 Claims were approved in the amount of \$3,640,299.80.
- E-2 The minutes of August 17, 2005 (Regular Meeting), August 30, 2005 (Shirtsleeve Session), August 30, 2005 (Special Meeting), September 13, 2005 (Shirtsleeve Session), and September 20, 2005 (Shirtsleeve Session) were approved as written.
- E-3 Adopted Resolution No. 2005-204 approving the specifications, authorizing advertisement for bids for maintenance of the Lodi Consolidated Landscape Maintenance Assessment District 2003-1, beginning January 1, 2006 and ending June 30, 2007, and authorizing the City Manager to award or reject the contract up to \$168,500.
- E-4 Approved the specifications and authorized advertisement for bids for Elevator Services for City Facilities.
- E-5 Adopted Resolution No. 2005-205 rejecting all bids and authorizing advertisement for bids for the Turner Road Underpass Pump Station Modifications.
- E-6 Adopted Resolution No. 2005-206 awarding the purchase of 22,000 feet of 600-volt insulated electrical cable to G. E. Supply Company, of North Highlands, CA, in the amount of \$39,350.30.
- E-7 Accepted memorial plaque donation from Donna Phillips in honor of Grace Montgomery.
- E-8 Accepted memorial bench and plaque donation from Cheryl D. Moon in honor of Greg Schneider.
- E-9 Accepted memorial plaque donation commemorating Friends of Lodi Lake 10th Anniversary.

- E-10 Adopted Resolution No. 2005-207 authorizing the City Manager to accept the donation of a vehicle to the Lodi Police Department Partners Volunteer Program from the Lodi Lions Club.
- E-11 Adopted Resolution No. 2005-208 approving established overall annual Disadvantaged Business Enterprise goal of 6% for Federal Transit Administration-assisted projects for federal fiscal year 2005-06.
- E-12 Adopted Resolution No. 2005-209 to cast an affirmative vote on Property Assessment Ballot for City properties within the San Joaquin County Mosquito and Vector Control District and authorizing the City Manager, or his designee, to execute and submit ballots.
- E-13 Adopted Resolution No. 2005-210 approving the application for Transportation Planning Grant from the California Department of Transportation (Caltrans) for the Railroad Corridor Transit Oriented Development Plan.
- E-14 Adopted Resolution No. 2005-211 approving the application for grant funds for the California River Parkways Grant Program under the Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002.
- E-15 Adopted Resolution No. 2005-212 authorizing renewal of support agreement for Wide Area Network equipment from WAN/LAN Solutions, Inc., of Roseville, CA, in the amount of \$13,900.
- E-16 Adopted Resolution No. 2005-213 authorizing renewal of support agreement for J.D. Edwards software system from Oracle Corporation, of Redwood City, CA, in the amount of \$27,530, and granted the City Manager authority to approve subsequent annual renewals.
- E-17 Adopted Resolution No. 2005-214 authorizing the destruction of certain records retained by the City Clerk's Office.
- E-18 Adopted Resolution No. 2005-215 ratifying Memorandum of Understanding with Lodi City Mid-Management Association for calendar year 2006.
- E-19 Authorized the Treasurer and Revenue Manager to enter into agreement with Farmers and Merchants Bank of Central California for the issuance of a City credit card for Community Development Director, Randy Hatch.
- E-20 Set public hearing for October 19, 2005, for 2005-06 Federal Program of Transit Projects Lodi Urbanized Area.

F. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS

- Ed Beswick, Chairman of the Lodi Improvement Committee, announced that 400 Lodi volunteers would be meeting on October 15 as part of the "40 Days of Community" project. Between the hours of 10:00 a.m. and 2:00 p.m., volunteers will be cleaning up various areas of the city.
- Georgianna Reichelt recalled that Mayor Beckman had attended a Manteca City Council meeting to request a continuance of an item and she alleged that he introduced himself as both the Mayor of Lodi and representative of the Building Industry Association (BIA). She felt that this was a conflict of interest and further suggested that Mayor Beckman should not vote on any matter that affects the BIA. Ms. Reichelt mentioned that she was the President of the Land Utilization Alliance and a proponent of slow growth. She assisted citizens with the referendum against Lodi's redevelopment ordinance.

G. COMMENTS BY CITY COUNCIL MEMBERS ON NON-AGENDA ITEMS

- Council Member Hansen reported that he attended a San Joaquin Council of Governments (SJCOG) meeting last week on the topic of Measure K renewal. Measure K, a half cent sales tax, expires in 2011 and a renewal measure is scheduled for the November 2006 General Election. Measure K provides funding for congestion relief, transit, safety, railroad crossings, etc. In addition, the issue of governance, how money should be divided, and the voting structure of SJCOG is being considered. Mr. Hansen recommended that a Shirtsleeve Session be scheduled to discuss these issues.
- In response to Ms. Reichelt's earlier comments, Mayor Beckman acknowledged that he did attend a Manteca Council meeting a few months ago. The Mayor of Manteca introduced him as the Mayor of Lodi and was corrected by Mr. Beckman that he was attending as a representative of the BIA.

H. COMMENTS BY THE CITY ATTORNEY ON NON-AGENDA ITEMS

- City Attorney Schwabauer apologized to the public for his "combative" tone at the September 21 City Council meeting when speaking on the topic of a water rate increase for PCE/TCE remediation.

Mayor Beckman expressed his opinion that the City Attorney had done a good job of "zealously" representing his clients.

Council Member Johnson felt that an apology might also be due from some members of the public who spoke at the September 21 City Council meeting in a less than civil tone.

I. PUBLIC HEARINGS

- I-1 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Beckman called for the public hearing to consider resolution adopting Engineer's Report, confirming assessments, overruling protests and declaring assessment ballot results and annexing five zones into the Lodi Consolidated Landscape Maintenance Assessment District 2003-1 and forming zones 8, 9, 10, 11, and 12.

Rick Clark, Project Manager for NBS, mentioned that his firm was assisting the City with the annexation of five new zones into the Lodi Consolidated Landscape Maintenance Assessment District 2003-1. He explained that assessment amounts are comprised of specific improvements, which include landscape maintenance, repair, replacement, water, electricity, masonry block walls, street trees, park maintenance, administrative fees, publication costs, and a contingency component.

Hearing Opened to the Public

None.

Public Portion of Hearing Closed

City Clerk Blackston reported that she personally received the ballots cast in the special assessment mailed ballot procedure as called by the City Council in Resolution 2005-167 adopted August 17, 2005. She explained that the assessment ballots are weighted according to the proportional financial obligation the affected property has to the total assessment amount. Ms. Blackston declared the balloting closed and certified the results of the tabulation to be as follows:

Vintage Oaks – Zone 8

Total assessment ballots cast YES	\$7,083.90
Total assessment ballots cast NO	Zero

Interlake Square – Zone 9

Total assessment ballots cast YES	\$2,181.96
Total assessment ballots cast NO	Zero

Lakeshore Properties – Zone 10

Total assessment ballots cast YES	\$1,156.92
Total assessment ballots cast NO	Zero

Tate Property – Zone 11

Total assessment ballots cast YES	\$1,732.92
Total assessment ballots cast NO	Zero

Winchester Woods – Zone 12

Total assessment ballots cast YES	\$1,169.92
Total assessment ballots cast NO	Zero

MOTION / VOTE:

The City Council, on motion of Mayor Beckman, Hansen second, adopted Resolution No. 2005-216 adopting the Engineer's Report; confirming assessments; overruling protests and declaring assessment ballot results; and annexing five zones into the Lodi Consolidated Landscape Maintenance Assessment District No. 2003-1 and forming Vintage Oaks Zone 8, Interlake Square Zone 9, Lakeshore Properties Zone 10, Tate Property Zone 11, and Winchester Woods Zone 12.

The motion carried by the following vote:

Ayes: Council Members – Hansen, Johnson, Mounce, and Mayor Beckman

Noes: Council Members – None

Absent: Council Members – Hitchcock

J. COMMUNICATIONS

J-1 Claims filed against the City of Lodi – None

J-2 Appointments – None

J-3 Miscellaneous – None

NOTE: The City Council heard the following item out of order.

M. ADJOURN TO SPECIAL JOINT MEETING OF THE LODI CITY COUNCIL AND REDEVELOPMENT AGENCY

At 7:45 p.m., Mayor Beckman adjourned the regular meeting of the City Council to a Special Joint meeting with the Redevelopment Agency (NOTE: Refer to the Special Joint meeting with the Redevelopment Agency minutes of October 5, 2005).

The Regular City Council meeting reconvened at 8:44 p.m.

K. REGULAR CALENDAR

K-1 “Adopt resolution approving matching grant application of G-REM, Inc. for public art project to be located at the Vintner's Square Development (\$40,000)”

Donna Phillips, representing the Art in Public Places Advisory Board, reported that the Board unanimously approved G-REM, Inc.'s matching grant application on August 31.

Robyn Burror, Public Art Manager for the city of Stockton, explained that she was hired by G-REM to facilitate the public art project to be located at the northwest corner of the Vintner's Square development at Highway 12 and Westgate Drive. The public art proposal

is a mural project made of ceramic tiles set into a semi-circular stone wall. The wall will be six feet in height, 27 feet long. The mural is designed to be a panoramic view of the Lodi area including its wildlife, vineyards, and the history of German and Italian wine making.

Council Member Mounce supported the concept of public art; however, due to the City's poor financial condition at this time, she would vote against the proposal.

MOTION / VOTE:

The City Council, on motion of Council Member Hansen, Beckman second, adopted Resolution No. 2005-217 approving matching grant application in the amount of \$40,000 of G-REM, Inc. for public art project to be located at the Vintner's Square Development. The motion carried by the following vote:

Ayes: Council Members – Hansen, Johnson, and Mayor Beckman

Noes: Council Members – Mounce

Absent: Council Members – Hitchcock

RECESS

At 8:55 p.m., Mayor Beckman called for a recess, and the City Council meeting reconvened at 9:05 p.m.

K. REGULAR CALENDAR (Continued)

NOTE: The following item was heard out of order.

- K-6 "Discuss Lodi Municipal Code Title 5, Permits and Regulations, Chapter 5.12, Cardrooms, and provide direction to staff regarding potential revisions"

Council Member Johnson stated that attorney Tom Newton, representing a local business, approached him to ask if Council would consider updating the City's ordinance related to card rooms.

PUBLIC COMMENTS:

- Tom Newton stated that he was representing Jack Morgan, sole owner since 2001 of Jack's Back Bar on Sacramento Street, which has an adjoining card room. Lodi's current ordinance, adopted in 1955, identifies the games that can be played within the City, but does not define the rules. Mr. Newton stated that, over the years, the management and supervision of card rooms has passed from local agencies to the State. In 1984, a division was formed at the State that monitors both Indian casino gambling and card rooms. In 2000, the Department of Gaming Control was formed, which oversees the operation of card rooms and approves what games (and the rules of each game) that can be played. Mr. Newton noted that Texas Hold Em is a very popular card game today. He reported that the following cities have amended their ordinances to allow Texas Hold Em to be played: Manteca, Stockton, Sacramento, Modesto, Fresno, Turlock, Merced, Napa, American Canyon, Hayward, Emeryville, Clovis, and Oakdale. Fresno exacted a 9% gross receipts tax on its card rooms. Mr. Newton stated that Jack Morgan would agree to the 9% gross receipts tax should Lodi wish to institute it. Mr. Newton estimated that Mr. Morgan's card room could generate up to \$275,000 annually on a gross receipts basis. In addition, if proposed ordinance changes are adopted, there would be up to 40 jobs created. Mr. Newton outlined the following requests to be incorporated in the ordinance amendment:
 - Allow any game approved by the Department of Gaming Control;
 - Increase hours of operation from 2:00 a.m. to 4:00 a.m. on Saturdays and Sundays;
 - Increase the limit of the number of players per table from 7 to 10; and
 - Authorize a 7th table.

Council Member Hansen disclosed that he met with Mr. Newton previously about this matter and is willing to support it. He expressed concern about allowing any game approved by the Department of Gaming Control, as he preferred such changes come before Council for approval.

Council Member Johnson asked that the Police Department provide comment on the issue of extending the hours of operation.

Council Member Mounce also disclosed that she met with Mr. Newton previously and was interested in considering an amendment to the ordinance.

- Ann Cerney asked how often the number of card room tables could be increased.

Mr. Newton replied that State law stipulates that the number of tables can be increased by 25% one time without going to a vote of the people.

Mayor Beckman asked staff to draft possible amendments to the City's card room ordinance and bring back options to Council for consideration.

MOTION / VOTE:

It was the consensus of the City Council that the City Attorney prepare a draft ordinance on this issue.

- K-2 "Adopt resolution approving proposed Sidewalk Maintenance Policy and provide direction to staff as needed"

City Manager King noted that Section 5600 of the Streets and Highways Code regulates maintenance of sidewalks. It states that cities can order fronting property owners to repair sidewalks that endanger persons or property or if a condition exists that interferes with the public convenience of the use of the sidewalk. Staff wishes to reinforce that section of State law as a policy of the City and to have an ordinance that would provide the transfer of third party liability. Staff also recommends that if a City street tree causes the sidewalk damage that the City pay 50% of the cost to repair it. In addition, an assessment deferral program is proposed for low-income and hardship cases, in which the City would make the repairs and assess the cost to be paid upon transfer of the property. There would also be a 12-month payment program without interest offered.

Kirk Evans, Risk Manager, commented that the proposed ordinance would provide strong incentive for property owners to make sure their sidewalks are in good condition and repair any defects, because they would be liable if someone is injured. It would also ensure participation of the adjoining property owners' insurance carriers, so they would participate in any trip and fall claim settlements.

Council Members Mounce, Johnson, Hansen, and Mayor Beckman agreed that if a City tree caused the damage to the sidewalk, the City should pay 100% of the repair cost.

PUBLIC COMMENTS:

- Ann Cerney asked how it is determined whether it is a City tree.

Public Works Director Prima replied that if the tree is in the right of way then it is considered a City tree.

MOTION / VOTE:

The City Council, on motion of Council Member Mounce, Beckman second, adopted Resolution No. 2005-218 approving proposed Sidewalk Maintenance Policy, as amended. The motion carried by the following vote:

Ayes: Council Members – Hansen, Johnson, Mounce, and Mayor Beckman

Noes: Council Members – None

Absent: Council Members – Hitchcock

- K-3 “Adopt resolution approving proposed Sidewalk Installation Policy and provide direction to staff as needed”

Public Works Director Prima explained that the purpose of the proposed policy was to encourage walking by having a linking system of pedestrian paths. Phase 1 would offer grants to cover half the cost of the sidewalk with voluntary participation on a first come, first served basis focusing on residential parcels. 100% funding would be provided for disabled persons meeting low-income criteria per the City Utility's SHARE program. A deferral program would be available for other low-income homeowners. Phase 1 is to be completed in six years. The annual budget amount for the program is \$50,000. Phase 2 of the program would consist of the remaining parcels from Phase 1, in which property owners declined to participate and the City would systematically order installation. The property owner would bear 100% of the cost; however, the low-income deferral program would be offered. Subdivisions that were approved without sidewalks are excluded from the program. The City would waive encroachment permit fees for people who participate voluntarily. Option B proposes 100% City funding with no Phase 2, and Option C would be to handle sidewalk requests on a case-by-case basis.

Council Member Johnson was opposed to a cost sharing program. Due to the fact that property owners are responsible for sidewalks fronting their property, he felt they should pay for the entire cost. He expressed support for the deferral program and low-income considerations. He noted that the City's General Plan calls for sidewalks and it should be enforced.

Council Member Hansen felt that the City should share in the cost because it is partly responsible for the current situation.

Council Member Mounce spoke in support of Option A as presented; however, she expressed concern regarding forcing residents to put in sidewalks, particularly where fences or other structures may have to be removed in order to comply.

Mayor Beckman was opposed to the cost sharing proposal and the concept of mandating the program and then requiring property owners to pay for it.

PUBLIC COMMENTS:

- Ann Cerney pointed out that the proposal exempts certain affluent neighborhoods built without sidewalks, and yet poorer areas will be required to install sidewalks at the homeowners' expense.

Mayor Beckman suggested that sidewalk installation be required when there is a change of ownership or major repairs are done on the property, in which case the property owner would be 100% responsible for the cost.

Council Member Mounce expressed support for Mr. Beckman's suggestion.

Council Member Johnson pointed out that Mr. Beckman's suggestion would not solve the problem, as the ownership of the property may not change for decades. He recommended that Public Works provide property owners with names of two or three reputable contractors to perform the sidewalk installation and that City fees be waived.

Council Member Mounce offered another option where property owners pay 100% of the cost and the City would pay 100% of the cost for low-income and disabled persons.

Ann Cerney reported that there are Federal guidelines related to poverty levels and homes are exempt from the criteria. She noted that very few low-income persons are homeowners.

Mayor Beckman and Council Member Johnson were opposed to Ms. Mounce's suggestion.

MOTION / VOTE:

There was no Council action taken on this matter.

- K-4 "Adopt resolution authorizing the City Manager, or his designee, to approve advance procurement of energy (up to 95% of the Electric Utility's net open position) through Northern California Power Agency (estimated at \$11.3 million pursuant to pricing on 9/13/2005)"

Dave Dockham, Interim Electric Utility Director, explained that it is necessary to procure 95% of the net short open position that the Utility has to meet its load serving obligation in the community. Staff has arranged to have supply proposals given to the Northern California Power Agency tomorrow at 9:00 a.m. Those supplying the proposals are required to hold them open for three hours to allow time for evaluation before a decision to purchase is made.

Mr. Dockham stated that the City has a number of resources that it either has procured in the form of a contract or it has an ownership share of. Lodi Electric Utility is part of a seasonal exchange with Seattle City Light in Washington. He explained that utilities in Central California get energy from the northwest during the summer and utilities here return that energy to the northwest during the winter. Lodi also has investments in geothermal facilities and there are contracts signed with the City and three suppliers. There is a small amount of energy received from the Western Area Power Administration. The City has an ownership share in the Calaveras hydroelectric project and has a steam injected gas turbine next to the White Slough Water Treatment Plant.

Mr. Dockham reported that the recent hurricanes in the Louisiana and Texas areas have decimated the supply infrastructure. A number of natural gas producing facilities are out of service. Mr. Dockham believed there would be a likelihood of power prices increasing in the near term months. At the time the staff report was prepared for this item, the cost to secure the net short position was \$11.3 million. Since that time, prices have increased and it is now projected to cost \$13 million. Mr. Dockham reported that the Electric Utility's budget was adopted in June 2005 with a deficit of \$8 million. At that time, it would have taken a 16% increase in electric rates to get the budget back in balance. Due to the higher cost of energy since September, that percentage has now increased to 18.9%. Mr. Dockham asked that the draft resolution for this item be changed from "... *at the best price available on the market pursuant to pricing on September 13, 2005*" to "...*at the best price available on the market October 6, 2005.*"

Council Member Hansen stated that this situation is why former Electric Utility Director Alan Vallow was terminated. The City is not covered with an adequate supply of purchased power and the Council was led to believe it was.

In reply to questions posed by Council Member Hansen, Mr. Dockham acknowledged that being in the position to respond quickly to market volatility is critical, as is having an adequate fund balance that can absorb changing prices. He acknowledged that it is possible for the price to drop below \$65 in the next twelve months. He cautioned that by entering into this contract, the City is equally likely to see prices go down and be criticized for buying at this level, as it is to have prices go up and be criticized for not buying at this level when the opportunity existed. The Department of Energy is advising that prices of gas

are at historic highs at this time (\$14 a million BTU) and could increase to \$20 in the next couple of months. NCPA recommends buying power only through June 2006. Mr. Dockham did not recommend purchasing power only through March 2006. He stated that it is possible that Lodi's electric rates would be higher than Pacific Gas & Electric. Currently, energy is costing the City significantly more than what is being charged. Market Cost Adjustments (MCA) allow for recovery of the true cost of selling electricity to the community. Rates are set based on the revenue and expense profile of the Utility. Rates should be set appropriate to the cost structure and the MCA used solely as an adjusting mechanism.

Finance Director Krueger reported that the actual final 2005-06 budget number for purchase of power was \$39.8 million. He acknowledged that adjustments were made and the purchase amount is different than what was originally anticipated.

MOTION / VOTE:

The City Council, on motion of Council Member Hansen, Beckman second, adopted Resolution No. 2005-219 authorizing the City Manager, or his designee, to approve advance procurement of energy (up to 95% of the Electric Utility's net open position) at the best price available on the market October 6, 2005, through NCPA. The motion carried by the following vote:

Ayes: Council Members – Hansen, Johnson, Mounce, and Mayor Beckman

Noes: Council Members – None

Absent: Council Members – Hitchcock

VOTE TO CONTINUE WITH THE REMAINDER OF THE MEETING

The City Council, on motion of Council Member Johnson, Beckman second, voted to continue with the remainder of the meeting following the 11:00 p.m. hour. The motion carried by the following vote:

Ayes: Council Members – Hansen, Johnson, Mounce, and Mayor Beckman

Noes: Council Members – None

Absent: Council Members – Hitchcock

K. REGULAR CALENDAR (Continued)

K-5 “Approve use of Request for Proposal process and authorize solicitation of proposals for purchase of water meters for a Residential Water Meter Retrofit Project”

Public Works Director Prima reported that the 2005-06 budget includes the purchase of a certain amount of water meters to be installed for testing purposes. Public Works will be partnering with Electric Utility on an automated meter reading system. Staff will return to Council in one year with a metered rate recommendation. He confirmed that, with the first 400 water meters, it was staff's intention not to charge for meters or for the installation.

MOTION / VOTE:

The City Council, on motion of Council Member Mounce, Beckman second, approved the use of the Request for Proposal process and authorized the solicitation of proposals for purchase of water meters for a Residential Water Meter Retrofit Project. The motion carried by the following vote:

Ayes: Council Members – Hansen, Johnson, Mounce, and Mayor Beckman

Noes: Council Members – None

Absent: Council Members – Hitchcock

- K-7 “Approve expenses incurred by outside counsel/consultants relative to the Environmental Abatement Program litigation and various other cases being handled by outside counsel (\$115,496.74) and approve Special Allocation covering general litigation matter expenses (\$1,966.05)”

City Attorney Schwabauer reviewed the “blue sheet” staff report for this item (filed) and recommended that Council approve the payment for expenses incurred by outside counsel and consultants.

MOTION / VOTE:

The City Council, on motion of Council Member Hansen, Mounce second, approved expenses incurred by outside counsel/consultants relative to the Environmental Abatement Program litigation and various other cases being handled by outside counsel in the amount of \$111,312.74 and approved Special Allocation covering general litigation matter expenses in the amount of \$1,909.05, as detailed below, by the following vote:

Ayes: Council Members – Hansen, Johnson, Mounce, and Mayor Beckman

Noes: Council Members – None

Absent: Council Members – Hitchcock

Folger, Levin & Kahn

Matter No.	Invoice No.	Date	Description	Total Amount
8002	90293	08/31/05	People v M&P Investments	\$31,860.13 (3,032.00)
8003	90294	08/31/05	Hartford Insurance Coverage Litigation	\$888.28
8006	90296	08/31/05	Fireman's Fund/Unigard Appeal	\$20,427.67 (235.00)
8008	90297	08/31/05	Envision Law Group	\$59,107.83 (\$860.00)
				<u>\$108,156.91</u>

Kronick, Moskovitz, Tiedemann & Girard

Matter No.	Invoice No.	Date	Description	Total Amount	Distribution	
					100351.7323	183453.7323
11233.021	221539	08/25/05	On-Site Litigation Support	1246.78		1246.78
11233.001	221540	08/25/05	General advice	657.10 (57.00)	657.10 (57.00)	
11233.026	221540	08/25/05	Lodi First v. City of Lodi	416.65	416.65	
11233.027	221540	08/25/05	Citizens for Open Govt.v.Col	892.30	892.30	
				<u>3,155.83</u>	<u>1,909.05</u>	<u>1,246.78</u>

L. **ORDINANCES**

None.

N. **ADJOURNMENT**

There being no further business to come before the City Council, the meeting was adjourned at 11:24 p.m.

ATTEST:

Susan J. Blackston
City Clerk

**LODI CITY COUNCIL
SPECIAL JOINT CITY COUNCIL MEETING
WITH THE REDEVELOPMENT AGENCY
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, OCTOBER 5, 2005**

A. CALL TO ORDER / ROLL CALL

The Special Joint City Council meeting with the Redevelopment Agency of October 5, 2005, was called to order by Chairperson Beckman at 7:45 p.m.

Present: Members – Hansen, Johnson, Mounce, and Chairperson Beckman

Absent: Members – Hitchcock*

Also Present: City Manager King, City Attorney Schwabauer, and City Clerk Blackston

*NOTE: Vice Chair Hitchcock was absent due to her attendance at the League of California Cities annual conference in San Francisco.

B. REGULAR CALENDAR

- B-1 “JOINT MEETING of the Lodi City Council and Redevelopment Agency to discuss and provide direction to staff regarding potential ordinance to limit Lodi’s use of eminent domain to acquisition property that will be put to a municipal use”

City Manager King commented that this item was placed on the agenda at the request of Council to consider whether or not the Redevelopment Agency should adopt an ordinance divesting itself of the ability to use the power of eminent domain to acquire property. Mr. King reported that over 400 cities in California have redevelopment project areas. They are used as an economic development tool and allow a greater percentage of the property tax to be retained within the local jurisdiction. Mr. King stated that he worked for the cities of Eureka, Soledad, and Imperial Beach that had redevelopment agencies without eminent domain included in their redevelopment project areas. He reported that they were all successful in accomplishing the goals that their redevelopment project areas set forward. The city of Milpitas did not have eminent domain in its project areas 1, 2, and 3; however, it retained eminent domain in one area for commercially zoned property, but did not allow it for residentially zoned properties. He noted that it is not necessary to have a project area committee if eminent domain is eliminated.

Mayor Beckman stated that the Supreme Court case of Kelo vs. City of New London (Connecticut) changed the dynamics of the use of eminent domain by governmental entities. He supported Senator Tom McClintock’s proposed Constitutional Amendment No. 22, which states, *“This measure would add a condition that private property may be taken or damaged by eminent domain proceedings only for a stated public use and only upon an independent judicial determination on the evidence that the condemnor has proven that no reasonable alternative exists. The measure would require that the property be owned and occupied by the condemnor, except as specified, and used only for the stated public use. This measure would also provide that if the property ceases to be used for the stated public use, the former owner or a beneficiary or an heir, who has been designated for this purpose, would have the right to reacquire the property for the compensated amount or its fair market value, whichever is less, before the property may be sold or transferred.”* Mayor Beckman was in favor of a similar ordinance being drafted for the City.

Council Member Hansen noted that Lodi is losing property tax dollars to the State that could be used on capital projects to benefit the community if it had a redevelopment area. He was in favor of an ordinance that would remove the eminent domain element from redevelopment and felt it was important to codify it in such a way that it would be difficult to change in the future.

Mr. King explained that, if adopted, there would be an ordinance of the Redevelopment Agency and the project area would also have language that no eminent domain would be contained. He explained that, to amend a redevelopment project, all the steps would have to be done again, including the ordinance, which would allow another opportunity for a referendum as well as the need to form a project area committee.

Council Member Mounce stated that she has researched this issue and attended many conferences on the pros and cons of redevelopment. She believed that the only way to ensure that personal property rights are protected is to not have a redevelopment agency. She recalled that after a year and a half of work on Lodi's redevelopment project area, the public voiced strong objection, and she did not want to have the same result again after repeating the work and expense.

PUBLIC COMMENTS:

- Barbara Flockhart stated that the U.S. Supreme Court ruled June 23 that the government can condemn homes and businesses to make room for private development. She noted that the average homeowner lacks the money to fight the takeover of their property. Redevelopment takes a portion of the property taxes from the County, which leaves less for County services. In addition, redevelopment money has to be paid back with interest. She hoped that Senator McClintock's Constitutional amendment passes. Ms. Flockhart affirmed that she was opposed to eminent domain on rentals, homes, or businesses.
- Georgianna Reichelt recalled that she was asked by Lodi citizens to assist them with the referendum against the redevelopment ordinance. In less than 30 days, they collected over 4,000 signatures. Redevelopment limits the amount of money going into the general fund. She stated that 93% of Manteca is under redevelopment and now there is not enough money for public safety. She reported that San Diego and San Jose are on the verge of bankruptcy, due to borrowing redevelopment money and not getting the tax dollars that they originally anticipated.
- Eunice Friederich asked where the City would get property for redevelopment without eminent domain. Without borrowing, there is no money for redevelopment. If the City gets the tax increment, it takes away from County services. She was in favor of an ordinance that would eliminate eminent domain and hoped that the redevelopment project area would not be brought back.
- Ann Cerney asked how there would be the ability to take control of property within a redevelopment area without eminent domain.

Mayor Beckman and Council Members Hansen and Mounce expressed support for having the City Attorney draft an ordinance to limit Lodi's use of eminent domain similar to Senator McClintock's proposed Constitutional amendment and bring the matter back to Council for consideration.

Council Member Johnson was not in favor of the proposal because he felt there may be an opportunity where eminent domain could reasonably be used that the public would not be opposed to and he did not want an ordinance restricting the possibility.

MOTION / VOTE:

It was the consensus of the Redevelopment Agency that the City Attorney prepare a draft ordinance on this issue.

C. ADJOURNMENT

There being no further business to come before the Redevelopment Agency, the meeting was adjourned at 8:44 p.m.

ATTEST:

Susan J. Blackston
City Clerk / Secretary
Redevelopment Agency

**LODI CITY COUNCIL
REGULAR CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, OCTOBER 19, 2005**

C-1 CALL TO ORDER / ROLL CALL

The City Council Closed Session meeting of October 19, 2005, was called to order by Mayor Beckman at 6:00 p.m.

Present: Council Members – Hansen, Hitchcock, Johnson, Mounce, and Mayor Beckman

Absent: Council Members – None

Also Present: City Manager King, City Attorney Schwabauer, and City Clerk Blackston

C-2 ANNOUNCEMENT OF CLOSED SESSION

- a) Actual litigation: Government Code §54956.9(a); one case; *Farr Associates v. City of Lodi*, San Joaquin County Superior Court, Case No. CV-025075
- b) Conference with legal counsel – anticipated litigation – significant exposure to litigation pursuant to subdivision (b) of Section 54956.9; one case; pursuant to Government Code §54956.9(b)(3)(B) regarding former Electric Utility Director
- c) Conference with Blair King, City Manager, and/or Jere Kersnar, Interim Deputy City Manager (Acting Labor Negotiators), regarding International Brotherhood of Electrical Workers and Lodi Police Officers Association, pursuant to Government Code §54957.6

C-3 ADJOURN TO CLOSED SESSION

At 6:00 p.m., Mayor Beckman adjourned the meeting to a Closed Session to discuss the above matters.

The Closed Session adjourned at 6:55 p.m.

C-4 RETURN TO OPEN SESSION / DISCLOSURE OF ACTION

At 7:01 p.m., Mayor Beckman reconvened the City Council meeting, and City Attorney Schwabauer disclosed that no reportable action was taken in closed session.

A. CALL TO ORDER / ROLL CALL

The Regular City Council meeting of October 19, 2005, was called to order by Mayor Beckman at 7:01 p.m.

Present: Council Members – Hansen, Hitchcock, Johnson, Mounce, and Mayor Beckman

Absent: Council Members – None

Also Present: City Manager King, City Attorney Schwabauer, and City Clerk Blackston

B. INVOCATION

The invocation was given by Pastor Steve Newman, First Baptist Church.

C. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Beckman.

D. AWARDS / PROCLAMATIONS / PRESENTATIONS

D-1 (a) Following introduction by Ed Beswick, Chair of the Lodi Improvement Committee, Mayor Beckman presented the Community Improvement Award to Martin and Tanya Hernandez for the improvements to their residential property at 311 E. Lodi Avenue.

D-2 (a) Mayor Beckman presented a proclamation to Paula Beck, president of the Lodi Business and Professional Women, proclaiming the week of October 23 – 29, 2005, as “National Business Women’s Week” in the City of Lodi.

D-3 Presentations – None

E. CONSENT CALENDAR

In accordance with the report and recommendation of the City Manager, Council, on motion of Council Member Johnson, Mounce second, unanimously approved the following items hereinafter set forth **except those otherwise noted**:

- E-1 Claims were approved in the amount of \$5,770,896.72.
 - E-2 The minutes of September 7, 2005 (Regular Meeting), September 7, 2005 (Special Joint Meeting w/Redevelopment Agency), September 21, 2005 (Regular Meeting), and October 11, 2005 (Shirtsleeve Session) were approved as written.
 - E-3 "Approve plans and specifications and authorize advertisement for bids for water meter installations" was **removed from the Consent Calendar and discussed and acted upon following approval of the Consent Calendar**.
 - E-4 "Adopt resolution approving specifications, authorizing advertisement for bids for Maintenance of Landscape Areas for 2006, and authorizing the City Manager to award or reject the contracts up to an estimated \$170,000" was **pulled from the agenda pursuant to staff's request**.
 - E-5 Adopted Resolution No. 2005-220 awarding the contract for Lockeford Street Water Main (Church Street to Sacramento Street) and Olive Court Water Main Replacement (Pleasant Avenue to Church Street) Project to Arrow Construction Company, of Ceres, in the amount of \$337,760, and appropriating an additional \$108,000 for the project.
 - E-6 Adopted Resolution No. 2005-221 authorizing the City Manager to file the claim for 2005-06 Transportation Development Act funds in the amount of \$2,694,887 from Local Transportation Fund and \$11,614 from State Transit Assistance.
 - E-7 Adopted Resolution No. 2005-222 authorizing the City Manager to execute an addendum to the professional services agreement with Borismetrics, Inc., approved May 4, 2005, to increase funding in the amount of \$50,000 to support Electric Utility Department's rate analysis and resource acquisition needs.
 - E-8 "Adopt resolution authorizing the City Manager to approve Supplement Number 4 to the Northern California Power Agency (NCPA) Joint Powers Agreement approving the Bay Area Rapid Transit District as a full member to NCPA" was **removed from the Consent Calendar and discussed and acted upon following approval of the Consent Calendar**.
 - E-9 Adopted Resolution No. 2005-223 authorizing the City Manager to enter into an agreement for Workers Compensation claims adjusting and administration services with Gregory B. Bragg & Associates, Inc. in the amount of \$94,000 for year one, \$98,000 for year two, and \$102,000 for year three.
 - E-10 Set public hearing for November 2, 2005, to consider the Planning Commission's recommendation of approval of the request of John Costamagna for a rezone from R-2, Residential Single Family, to PD (37), Planned Development Number 37, for Luca Place, a 17-lot, low-density, single-family residential subdivision located at 1380 Westgate Drive, and approve Negative Declaration ND-05-04 as adequate environmental documentation for the project.
-

ACTION ON ITEMS REMOVED FROM THE CONSENT CALENDAR

- E-3 "Approve plans and specifications and authorize advertisement for bids for water meter installations"

In answer to questions posed by Council, Public Works Director Prima reported that the State has mandated cities to be fully metered by January 1, 2025. Four hundred water meters will be installed in early 2006 as an initial pilot project to gather data on residential water use and ensure that metered water rates are in sync with flat rates. Staff will return to Council with a policy recommendation for implementing the metering program. Public Works is coordinating with Electric Utility in an automated meter reading program. Homes selected for the pilot project have already paid for water meters.

MOTION / VOTE:

The City Council, on motion of Council Member Hansen, Beckman second, unanimously approved the plans and specifications and authorized advertisement for bids for water meter installations.

- E-8 "Adopt resolution authorizing the City Manager to approve Supplement Number 4 to the Northern California Power Agency (NCPA) Joint Powers Agreement approving the Bay Area Rapid Transit District (BART) as a full member to NCPA"

Mayor Pro Tempore Hitchcock asked what the advantage was to Lodi by having BART join NCPA. She questioned whether it would put Lodi in a competitive position for a limited source of power.

Interim Electric Utility Director Dockham reported that BART has been an associate member of NCPA for some time. He explained that competition exists whether or not BART is a member of NCPA because everyone is competing for the same sets of power supply. Mr. Dockham believed that working collaboratively draws out efficiencies for both agencies. He felt that the most significant benefit would be in increased representation, which improves the chance of influencing policy level decisions. All member cities present at the time consideration was made to allow BART to join NCPA as a full member had voted to approve it.

In answer to Mayor Pro Tempore Hitchcock, Mr. Dockham acknowledged that there is a potential to compete with BART for purchase of ownership of an NCPA owned power plant. He noted, however, that there currently are two potential projects and more than enough capacity for everyone to subscribe. He believed that, unless it was a project Lodi undertook itself, it would be competing for a share of the output of the unit with all utilities in the region.

MOTION / VOTE:

The City Council, on motion of Council Member Hansen, Beckman second, adopted Resolution No. 2005-224 authorizing the City Manager to approve Supplement Number 4 to the NCPA Joint Powers Agreement approving BART as a full member to NCPA. The motion carried by the following vote:

Ayes: Council Members – Hansen, Johnson, Mounce, and Mayor Beckman

Noes: Council Members – Hitchcock

Absent: Council Members – None

F. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS

None.

G. COMMENTS BY CITY COUNCIL MEMBERS ON NON-AGENDA ITEMS

- Council Member Mounce suggested that a Shirtsleeve Session be scheduled to discuss the use of block grant funding for installing no parking signs during times that street sweeping is scheduled.
- Council Member Hansen asked when roadwork on Lower Sacramento Road would be completed, to which Public Works Director Prima estimated that it would be done by November 1. Mr. Hansen announced that his granddaughter, Isabella Bree, was born on October 16 at 10 lbs, 1 oz, 22 inches.
- Council Member Johnson mentioned that a week ago there was an article in the Lodi News Sentinel that indicated the Budget/Finance Committee may need direction regarding its priorities. Mr. Johnson suggested that an offer be made to the Committee to conduct a joint meeting with the City Council to discuss its purpose and goals.

H. COMMENTS BY THE CITY MANAGER ON NON-AGENDA ITEMS

- City Manager King introduced newly hired City Planner Peter Pirnejad. He noted that this was the last Council meeting that Interim Deputy City Manager Jere Kersnar would be attending, as he has accepted the position of city manager in the city of Ojai.

NOTE: The following item was heard and acted upon out of order.

K. REGULAR CALENDAR

K-1 "Take the following actions:

- "a) Adopt Urgency Ordinance amending Lodi Municipal Code Title 13 – Public Services – Chapter 13.20, "Electrical Service," by repealing and reenacting Sections Res.13.20.175 (D)-(1), (5), and (6) relating to Market Cost Adjustment (MCA) billing factor and repealing Section 13.20.185 in its entirety relating to preexisting electric rates; and adopt resolution implementing the MCA; AND/OR
- "b) Introduce Ordinance amending Lodi Municipal Code Title 13 – Public Services – Chapter 13.20, "Electrical Service," by repealing and reenacting Sections 13.20.175 (D)-(1), (5), and (6) relating to Market Cost Adjustment billing factor and repealing Section 13.20.185 in its entirety relating to preexisting electric rates"

City Attorney Schwabauer explained that the proposed ordinances were identical with the exception that the urgency ordinance takes effect immediately and requires a four-fifths vote of Council to approve it and make the finding that it is needed for the immediate preservation of the public peace, health, or safety.

City Manager King noted that a presentation regarding this matter was presented at the October 18 Shirtsleeve Session, after which staff met with the largest electric customers to inform them of potential rate increases. He confirmed that no additional money from the proposed Market Cost Adjustment (MCA) would be transferred from Electric Utility to the City's General Fund.

Interim Electric Utility Director Dockham reported that on October 6 staff secured all the energy (at a 95% level) that would be needed through June 2006 to meet the load serving obligation to customers. Since 2003, the Electric Utility has been operating in a deficit condition. It was anticipated to be in an \$8.3 million deficit condition in fiscal year 2005-06. The cost to purchase energy in 2005-06 increased by \$3 million over what had been anticipated. That amount was mitigated by reducing expenses in the Electric Utility by \$2 million. Mr. Dockham reported that the Utility would now be operating in a deficit of over \$9 million. He characterized the Utility's "savings account" as a combination of rate stabilization and operating fund balances. Over the last few years, the savings account has been drawn down and without an adjustment this year it would be in a negative position. The proposed MCA would bring in \$6 million of the \$10 million needed. It would, however, cut the reduction of the savings account in half so that it would end the year with a positive

fund balance. Seventy-three percent of all expenses of the Electric Utility are fixed and non-discretionary; this includes 65% for purchase of power and 8% debt. Operations and maintenance totaled \$10.4 million and has been reduced by \$2 million. The Utility currently has 14 vacant positions. Services provided to the Utility by other departments total \$3 million and \$6.5 million is transferred to the General Fund. The bulk of the income comes from power sales. Approximately \$1 million comes from investment income (i.e. debt financing and interest on the principle) and payments from other departments for services provided to them. Revenue totals \$56.7 million and expenses total \$65.9 million. Power costs have increased rapidly throughout the United States. There have been no rate adjustments in Lodi since 2002. In 2003, power supply costs were \$30.8 million and it is estimated at \$42.7 million this year. In 2001, Electric Utility had contracts with certain customers that had expired. The contracts were renegotiated in 2003, and it was determined that they would be phased in over a four-year period. In October 2007, they were to be at the full published rate. The economic stimulus rate has been applied to the contracts, so they are not being phased in as originally planned and the published rate is not coming anywhere near meeting the \$6 million actual cost of providing power to these customers. The published rate includes the MCA. Staff is recommending that the MCA be added to the base rate and the discount be applied to published rate.

Mr. Dockham reported that a delay in the recommended rate increase would cause the deficit to increase by \$800,000 a month, which results in a 1.2% larger rate increase. In determining the MCA, staff began with an abbreviated cost of service analysis. Costs were assigned to each rate class based on the actual cost from fiscal year 2005. The 2005 costs were scaled up to align with costs for 2006. Those revenues and expenses were subdivided into power supply and non-power supply related costs and expenses. Mr. Dockham explained that the MCA is only to deal with increases in power supply. The difference between what it costs to serve customers on a power supply basis, and the revenue being received, represents what should be collected by the MCA. The MCA was capped at a level equal to or less than Pacific Gas & Electric (PG&E). The metric used for PG&E included its proposed rates that are scheduled to go into effect on January 1, 2006. Industrial customers, including the contracts and General Mills, are not currently paying any MCA. It costs the City 8 cents to procure energy for an I1 customer and it is being sold for 4 cents. The percentage increase on average for the five contract customers is 57%. The increase for General Mills is proposed to be 79%.

With the aid of overheads, Mr. Dockham displayed and reviewed various reports, spreadsheets, and graphs (all filed). Mr. Dockham stated that Lodi residents are currently paying more than PG&E on an average basis. The commercial average is slightly less than PG&E and the industrial average is significantly below PG&E. In the proposed MCA rate schedule, very low users of electricity will have a decrease in rates. Sixty five percent of residential customers would have a 2% increase on average. Prices per pad in the six mobile home parks in Lodi will increase between \$26 and \$67. The MCA recommendation is a structure that results in every customer class paying what it costs to serve them. Currently, there is a huge subsidy in the largest customer class.

Mr. Dockham reported that there is still a large open position next year and in some months it is nearly 50%. It may be beneficial for Lodi consider participating in a new project; however, this would necessitate development and capital costs. Mr. Dockham stated that there is a need to have someone evaluate the effect of the swaps that were entered into. Currently, there are 14 vacant positions in the Utility and a number of impending retirements. A review of the Utility's capital improvement program also needs to take place. The "true up" will set the rates at a level that they need to be to collect costs on an ongoing basis without a large reliance on a MCA. The MCA can be raised or lowered quickly after more detailed study; it will reduce further losses in income, will reduce the need for larger increases through delay, and will provide a positive signal to financial rating agencies that the City is committed to getting the revenues and expenses situation back into balance.

Mr. Dockham reviewed low-income discount and rebate programs.

Council Member Mounce asked for information related to educational programs that could be put in place to help customers conserve energy.

Mayor Pro Tempore Hitchcock disclosed that she had spoken to Bob Wheeler of General Mills prior to the meeting.

RECESS

At 8:45 p.m., Mayor Beckman called for a recess, and the City Council meeting reconvened at 8:54 p.m.

K. REGULAR CALENDAR (Continued)

K-1 City Manager King reported that the preliminary official statement in the 2002 bond issue (Cont'd.) indicated that on June 30, 2002, the nine largest customers of the City's Electric Utility Department accounted for 17% of the total kilowatt hours of sale and 8% of the revenue. Mr. King explained that the City used reserves to make up the difference. He stated that if it is Council's desire to reduce the impact to industrial users, the shortfall could be spread out differently and applied to residential customers. The Electric Utility's construction maintenance budget is \$3.7 million. Remaining bond proceeds total \$11.9 million. According to the bond indenture and official statement, system improvements are eligible expenses for bond proceeds. In theory, \$1 million in bond proceeds could be transferred to the Electric Utility construction maintenance budget for system improvements, and \$1 million from construction maintenance could be transferred into bulk power purchase. This could then reduce by one-third the requirements for 2005-06 to the contract users and General Mills. In year 2006-07, the contract users and General Mills would pay what was expected in 2005-06. In 2007-08, the contract users and General Mills could then pay the expected rates and reimburse the bond proceeds. That would have the net effect of not having to transfer the additional cost to the residential customers. Mr. King noted that he was presenting this information as an option for Council's consideration, though he did not recommend it.

Finance Director Krueger distributed and reviewed a memorandum and two spreadsheets listing financial ratios (all filed). He reported that the City's position on June 30, 1996, was just under \$22 million in net assets and that declined to \$13 million by June 30, 2005. In 1999-00, total assets increased as a result of selling certificates of participation. The net effect on the book value net assets of the Electric Utility was not favorably impacted as a result of selling the bonds. Unless proceeds of the bonds are used to either procure or put into place assets that cause the revenue base to increase, or operating expenditures to decrease, then there is no positive impact as a result of borrowing the money. In 2003, a second borrowing took place. Mr. Krueger acknowledged that more than \$1 million of bond money could be taken; however, net assets have declined over the last ten years and it has not produced any benefit to the City's financial position to spend bond proceeds on some of the projects. He cautioned that it would not be advisable to continue in the same fashion on an extended basis.

Council Member Hansen outlined the following options:

- Increase rates for highest users and other customers as recommended;
- Increase rates higher than recommended for residential users;
- Borrow capital money to buy time and allow industrial customers an opportunity to determine how to absorb the cost;
- Reduce the City's General Fund by \$1 million, which would equate to layoffs and significant reductions in services.

Mayor Pro Tempore Hitchcock was opposed to using bond proceeds toward short-term operations.

City Attorney Schwabauer also advised against using bond proceeds as previously mentioned.

PUBLIC COMMENTS:

- Pat Patrick, President of the Lodi Chamber of Commerce, believed that the magnitude and abruptness of the proposed electric rate increase on large businesses would put them in a hardship position. The discounted rates attracted businesses to the community, made them more competitive, and allowed them the opportunity to grow and provide jobs. He asked Council to allow the businesses time to analyze the situation and consider what the impacts would be.
- Dan Sroufe, Pacific Coast Producers, stated that his company pays 8 cents a kilowatt hour under the industrial rate and without the contract rate it would be 8.8 cents. The rate proposal would amount to a 45% increase and cost \$250,000 a year. Pacific Coast Producers employs 650 full-time employees with an average annual salary of \$40,000. He recommended that the true cost of service and true cost of procurement based upon the economy of scale of the user be more closely evaluated before making a decision on the rates. He pointed out that the Utility is spending almost 10% of its revenue on paying debt service. He recommended that Council determine why the debt has not had the return on investment that it should have had.
- Bob Wheeler, Manager of General Mills, noted that his company has operated in Lodi for 54 years. He was told yesterday at 2:30 p.m. by City staff that a 79% increase in electric rates was proposed for General Mills, which amounts to \$1.8 million annually. He mentioned that no member of Council attended the meeting, yet a significant policy shift is being recommended, i.e. doing away with business incentives. Mr. Wheeler stated that General Mills' actual cost is 6.8 cents per kilowatt hour. He reminded Council that regular annual increases in rates would be much more preferable than large unexpected increases that cannot be budgeted for. He emphasized that jobs return an economic benefit to the community. General Mills employs 500 people with salaries of over \$50,000. He asked Council to postpone its vote on this matter for 30 days, or make a modest increase in rates tonight. Time is needed to explore possible solutions and allow businesses and the City to work together collectively. He suggested that an economic analysis of businesses be conducted to show what the net worth is of the jobs they represent. He suggested the Electric Utility be privatized if its only benchmark is keeping rates equal to PG&E's.
- David Duggins, Plant Manager of Certainteed Corporation, reported that it has 185 employees with an average salary of \$40,000. He was informed yesterday that Certainteed would have a 61% increase in its electric rates. This amounts to \$750,000, which is 40% of its gross operating profit per year. Certainteed manufactures PVC pipe and is currently operating at 30% capacity, due to resin/petroleum based products that are no longer available as a result of the recent gulf coast hurricanes. He noted that Certainteed operated under the name Apache Plastics in Stockton and was lured to relocate to Lodi based on discounted electric rates. It paid 4.50 cents per kilowatt hour for three years.
- Adrienne Wang, Account/Controller of Cottage Bakery, reported that the president of the company was out of town and unable to meet with City staff regarding the proposed rate increase. Ms. Wang pointed out that the City adopted its 2005-06 budget in June and must have known that expenses were far greater than revenues. She felt that to increase rates based on the impact of the recent hurricanes would be acceptable; however, it is not fair to suddenly increase rates for other financial factors that the City was, or should have been, aware of. Cottage Bakery has 666 employees with average salaries of \$45,000. A 60% increase in electric rates would equate to more than \$1 million annually.

- Mark Phillips, Plant Manager of Schaefer Systems International, reported that his company was told it would sustain a 57% increase in electric rates, which amounts to \$300,000 a year. He expressed concern about its ability to absorb these costs and maintain profitability in its Lodi facility. As a resident of Lodi he worried about the long-term economic health of the community as a result of this proposal to large businesses. Schaefer Systems has 35 employees with salaries of \$40,000.
- Bob Emmer noted that he sent e-mails to the City Council regarding this matter. He felt that the transfer of Electric Utility money to the City's General Fund was inappropriate. He stated that rates could be lower if the Utility were not subsidizing the General Fund and equated it to a tax. He suggested that a task force be formed to look at the situation from a long-term point of view to determine if it is in the best interest of the City to have an Electric Utility. In reference to the proposed increases, he felt that Council should delay action for 30 days and allow citizens an opportunity to comment.
- Bill Crow asked who was watching the Electric Utility as the \$25 million disappeared. He expressed concern regarding the ability to retain businesses if their rates are increased significantly and asked how the new homes in Lodi would be supported without jobs in the community.
- Ron Addington, Executive Director of The Business Council of San Joaquin, reported that he had received several calls from businesses regarding this proposal. Everyone understands the need for a rate increase; however, there is great concern about the brevity and magnitude of this situation. He asked Council to allow more time to analyze the matter.

City Manager King recalled that there was a change in management of Electric Utility in August. Interim Electric Utility Director Dockham began employment on September 7. Staff had been operating under the assumption that all of the power needs had been secured for the calendar year. Approximately three weeks after he was hired, Interim Director Dockham discovered that the power had not been secured. Staff came before Council on October 5 asking for permission to purchase power on October 6. Once the purchase price was known, staff began working on the proposed MCA and has brought the information forward as quickly as possible.

Boris Prokop, consultant for Electric Utility, reported that the decrease in rates for some customers amounts to \$500,000. He explained that this occurred because PG&E has changed its rate structure since Lodi Electric Utility last changed its rates. The proposed MCA will match PG&E's rates scheduled to go into effect January 2006.

In reply to Council Member Hansen, Mr. Dockham stated that he believed operating expenses for Electric Utility could be reduced further in the short term; however, there are factors which will bring upward expenses in future years. Further analysis needs to be done so that the rate structure will be sufficient on a long-term basis.

Council Member Hansen suggested that decreases in rates not be factored in, that Electric Utility decrease its budget by another \$500,000, and its Operations and Maintenance budget be reduced by \$1 million.

Council Member Johnson pointed out that jobs are paying for services funded through the City's General Fund and if they are lost, the impacts will worsen the City's financial position. He did not see an alternative to having residential rates subsidize the job base to some degree.

Council Member Mounce felt that the rate increase should be spread more evenly throughout the entire customer base. She stated that the high increases to the industrial customers was unacceptable. She asked for additional time to review the information submitted by staff before making a decision.

MOTION # 1 / VOTE:

Mayor Beckman made a motion, Johnson second, to impose a flat 10% increase across the board to all ratepayers. The motion **failed** by the following vote:

Ayes: Council Members – Johnson and Mayor Beckman

Noes: Council Members – Hitchcock, Hansen, and Mounce

Absent: Council Members – None

MOTION #2 / VOTE:

The City Council, on motion of Mayor Pro Tempore Hitchcock, Hansen second, took the following actions by the vote shown below:

Ayes: Council Members – Hansen, Hitchcock, and Johnson

Noes: Council Members – Mounce and Mayor Beckman

Absent: Council Members – None

- Introduced Ordinance No. 1765 entitled, “An Ordinance of the City Council of the City of Lodi Amending Lodi Municipal Code Title 13 – Public Services – Chapter 13.20, “Electrical Service,” by Repealing and Reenacting Sections 13.20.175 (D)-(1), (5), and (6) Relating To Market Cost Adjustment Billing Factor; and Further Repealing Section 13.20.185 in its Entirety Relating to Preexisting Electric Rates”;
- Approved 50% of the proposed *MCA recommendation for industrial customers; and
- Approved recommended *MCA for all other customer categories as presented, with the exception that there be no decreases in rates

(*NOTE: Effective date of MCA to coincide with effective date of Ordinance No. 1765).

RECESS

At 11:15 p.m., Mayor Beckman called for a recess, and the City Council meeting reconvened at 11:27 p.m.

VOTE TO CONTINUE WITH THE REMAINDER OF THE MEETING

The City Council, on motion of Council Member Hansen, Mounce second, unanimously voted to hear only Items I-1 and I-2 following the 11:00 p.m. hour.

NOTE: Council subsequently decided to also consider Item K-5.

I. PUBLIC HEARINGS

- I-1 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Beckman called for the public hearing to consider resolution adopting 2005-06 Federal Program of Transit Projects Lodi Urbanized Area.

Public Works Director Prima reported that this was a required public hearing by the Federal Transit Administration. Federal funds are planned to be used for operations rather than capital projects.

Hearing Opened to the Public

None.

Public Portion of Hearing Closed

MOTION / VOTE:

No action was taken by the City Council.

- I-2 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Beckman called for the public hearing to review, adopt, and confirm the Cost Report for weed abatement on properties located at 1527 Magic Lane (APN 031-250-44) and 1315 Industrial Way (APN 049-250-67) and providing for collection through the San Joaquin County Auditor's Office.

City Manager King asked Council to confirm the Cost Report for weed abatement after allowing an opportunity for public comment.

Hearing Opened to the Public

None.

Public Portion of Hearing Closed

MOTION / VOTE:

The City Council, on motion of Council Member Mounce, Beckman second, unanimously adopted Resolution No. 2005-225 confirming the cost of weed abatement for the year 2005 and providing for collection.

J. COMMUNICATIONS

- J-1 Claims filed against the City of Lodi – None
J-2 Appointments – None
J-3 Miscellaneous – None

K. REGULAR CALENDAR

- K-2 “Adopt resolution accepting Impact Mitigation Fee Program Annual Report for fiscal year 2004-05” was ***pulled pursuant to the above vote.***
K-3 “Adopt resolution approving the Americans with Disabilities Act Transition Plan and forming a special ad hoc committee to obtain community input regarding future use and improvements for the Grape Bowl under the direction of the Parks and Recreation Commission” was ***pulled pursuant to the above vote.***
K-4 “Approve expenses incurred by outside counsel relative to the Wal-Mart Supercenter Store litigation and miscellaneous general counsel advice (\$2,433.51) and approve Special Allocation covering these expenses” was ***pulled pursuant to the above vote.***
K-5 “Adopt resolution ratifying settlement agreement with former Electric Utility Director Alan Vallow and appropriate funds therefore”

City Manager King noted that this matter had been discussed by the City Council at previous meetings and is now presented for action.

MOTION / VOTE:

The City Council, on motion of Council Member Johnson, Beckman second, unanimously voted to *not* ratify the settlement agreement with former Electric Utility Director Alan Vallow.

L. ORDINANCES

None.

Continued October 19, 2005

M. ADJOURNMENT

There being no further business to come before the City Council, the meeting was adjourned at 11:32 p.m.

ATTEST:

Susan J. Blackston
City Clerk



TM

CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Adopt resolution approving the City of Lodi annual investment policy and internal control guidelines

MEETING DATE: November 16, 2005

PREPARED BY: Finance Director/Treasurer

RECOMMENDED ACTION: That the City Council adopt the attached resolution approving the City of Lodi annual investment policy and internal control guidelines.

BACKGROUND INFORMATION: Section 53601 of the California government code requires the City Council to annually review and adopt the City's investment policy. Accordingly, the attached policy is presented for council review and approval. This policy is in compliance with state laws governing the investment of local agency funds and provides internal control guidelines to protect the funds of the City from misappropriation, speculation, and fraud.

The City of Lodi policy was certified by the Municipal Treasurers Association, United States and Canada in 1996 and 1997 and was re-certified in 2000. Additionally, this policy is annually reviewed by the City's audit firm and has been found to be in compliance with Government Code.

FUNDING: None.

FISCAL IMPACT: None

Respectfully,

James R. Krueger
Finance Director/Treasurer

Prepared by: Maxine Cadwallader, Revenue Manager/Deputy Treasurer

APPROVED: _____
Blair King, City Manager

RESOLUTION NO. 2005-_____

A RESOLUTION OF THE LODI CITY
COUNCIL ADOPTING THE CITY OF LODI
ANNUAL INVESTMENT POLICY AND
INTERNAL CONTROL GUIDELINES

=====

WHEREAS, pursuant to California Government Code §53601, the City Council is required to annually review and adopt the City of Lodi Investment Policy; and

WHEREAS, the Policy attached hereto marked Exhibit A, is in compliance with State laws governing the investment of local agency funds and provides internal control guidelines to protect the funds of the City from misappropriation, speculation and fraud.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Lodi has reviewed and hereby adopts the City of Lodi Annual Investment Policy and Internal Control Guidelines, which shall be effective this date.

Dated: November 16, 2005

=====

I hereby certify that Resolution No. 2005-_____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held November 16, 2005, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

SUSAN J. BLACKSTON
City Clerk

2005-_____

CITY OF LODI

**INVESTMENT POLICY
AND
INTERNAL CONTROL GUIDELINES**



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INVESTMENT POLICIES

INVESTMENT POLICY

1. INTRODUCTION

The purpose of this policy is to state the City's policies and procedures to be used for the investment of surplus funds in a prudent and systematic manner conforming to all state and local statutes governing the investment of public funds. Safety of principal is given the highest priority. In addition, this statement is intended to formalize investment-related activities to provide the highest investment return with maximum security while meeting daily cash flow demands.

2. SCOPE

The investment policy applies to all funds under the direct authority of the Finance Director/City Treasurer of the City of Lodi, including but not limited to the General Fund, Special Revenue Funds, Capital Project Funds, Enterprise Funds, Internal Service Funds and Trust and Agency Funds. All funds are accounted for in the City's Comprehensive Annual Financial Report. This policy is generally applicable to bond proceeds with consideration given to specific provisions of each issuance.

3. OBJECTIVES

Funds of the City will be invested with the following objectives in priority order:

Safety:

Safety of principal is the foremost objective of the investment program. Investments of the City of Lodi shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio. To attain this objective, diversification is required in order that potential losses on individual securities do not exceed the income generated from the remainder of the portfolio. The City of Lodi will diversify its investments by security type and institution. Financial institutions and broker/dealers will be prequalified and monitored as well as investment instruments they propose.

Liquidity:

The investment portfolio will remain sufficiently liquid to enable the City to meet all operating requirements which might be reasonably anticipated. This will be accomplished through maturity diversification in accordance with California Government Code 53635 and the State Local Agency Investment Fund with immediate withdrawal provision.

INVESTMENT POLICY

Return on Investments:

The City's investment portfolio shall be invested to achieve a "bench marked average" rate of return through economic cycles, that will protect these funds from the effects of inflation and the risks associated with higher returns, as long as it does not diminish the objectives of Safety and Liquidity, while preserving and protecting capital in the overall portfolio.

The "bench marked average" rate of return targeted to achieve this objective is the annual rate of return on the one-year U.S. Treasury Bill. Whenever possible and in a manner consistent with the objectives of safety of principal and liquidity, a yield higher than the "bench marked average" rate of return shall be sought.

4. DELEGATION OF AUTHORITY

The Treasurer is designated by the authority of the legislative body as the investment officer of the City as provided for in Government Code Section 53607 and is responsible for the investment decisions and activities of the City. The Treasurer will develop and maintain written administrative procedures for the operation of the investment program, consistent with this investment policy. The Treasurer shall hereafter assume full responsibility for such transactions until such time as the delegation of authority is revoked, and shall make a monthly report of such transactions to the legislative body. In order to optimize total return through active portfolio management, daily activity may be delegated to the Revenue Manager.

5. PRUDENCE

The standard of prudence to be applied by the Treasurer will be the "prudent person" standard, which states "Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investments, considering the probable safety of their capital as well as the probable income to be derived". The prudent person standard will be applied in the context of managing the overall portfolio. The Treasurer, acting in accordance with written procedures and exercising due diligence, will not be held personally responsible for a specific security's risk or market price changes, provided that these deviations are reported immediately and that appropriate action is taken to control adverse developments.

INVESTMENT POLICY

6. ETHICS AND CONFLICTS OF INTEREST

The City Treasurer is governed by The Political Reform Act of 1974 regarding disclosure of material financial interests. The City Treasurer shall refrain from personal business activity that could conflict with proper execution of the investment program or which could impair the ability to make impartial investment decisions.

7. MONITORING AND ADJUSTING THE PORTFOLIO

The Treasurer will routinely monitor the contents of the portfolio, the available markets and the relative values of competing instruments, and will adjust the portfolio accordingly.

8. INTERNAL CONTROLS

The Treasurer will establish a system of written internal controls, which will be reviewed annually by the City's independent audit firm. The controls will be designed to prevent loss of public funds due to fraud, error, misrepresentation, unanticipated market changes or imprudent actions.

9. REPORTING

The Treasurer will submit a quarterly investment report to the City Council, in accordance with Government Code Section 53646, to disclose the following information:

- A listing of individual securities held at the end of the reporting period by authorized investment category.
- Percentage of the Portfolio represented by each investment category.
- Institution
- Average life and final maturity of all investments listed.
- Coupon, discount or earnings rate.
- Par value or cost of the security
- Current market value of securities with maturity in excess of 12 months and the source of this valuation.
- Ability of the city to meet its expenditure requirements for the next six months or provide an explanation of why sufficient funds will not be available as required by Gov. Code 53646 (b)(3).

The quarterly investment report to the Lodi City Council, acting legislative authority, as required by Government Code Section 53646, will be in addition to the Treasurer's monthly report and accounting of all receipts, disbursements and fund balances.

INVESTMENT POLICY

In addition, the investment policy will be submitted to the City Council annually in September. Any changes will be noted and formal adoption in the form of a resolution of the City Council is required.

10. AUTHORIZED INVESTMENTS

The City will invest surplus funds not required to finance the immediate needs of the City as provided in California Government Code 53601. In selecting authorized investments, consideration must be given to credit ratings and collateralization of applicable instruments. A list of these instruments is provided below. These limitations, diversification and maturity scheduling will depend upon whether the funds being invested are considered short-term or long-term funds. All funds will be considered short-term except those reserved for capital projects (i.e. bond sale proceeds) and special assessment prepayments being held for debt retirement.

Pooled Accounts

The City of Lodi is authorized, by policy, to invest in The Local Agency Investment Fund (LAIF), a voluntary program created by statute, which began in 1977 as an investment alternative for California's local governments and special districts and continues today under the State Treasurer's Administration. The enabling legislation for the LAIF is Section 16429.1,2,3 of the California Government Code.

The LAIF is part of the Pooled Money Investment Account (PMIA). The PMIA began in 1953 and has oversight provided by the Pooled Money Investment Board (PMIB) and an in-house Investment Committee. The PMIB members are the State Treasurer, Director of Finance, and State Controller.

All securities are purchased under the authority of Government Code Section 16430 and 16480.4. The State Treasurer's Office takes delivery of all securities purchased on a delivery versus payment basis using a third party custodian. All investments are purchased at market, and market valuation is conducted monthly.

It has been determined that the State of California cannot declare bankruptcy under Federal regulations, thereby allowing the Government Code Section 16429.3 to stand. This Section states that "money placed with the state treasurer for deposit in the LAIF shall not be subject to either: (a) transfer or loan pursuant to Sections 16310, 16312, or 16313, or (b) impoundment or seizure by any state official or state agency."

The LAIF provides a book entitled "The Local Agency Investment Fund Answer Book" which resides in the City of Lodi Treasurer's office and provides current answers to the following questions, which are required prior to investing in any pooled/fund account.

INVESTMENT POLICY

- A description of eligible investment securities, and a written statement of investment policy and objectives.
- A description of interest calculations and how it is distributed, and how gains and losses are treated.
- A description of how the securities are safeguarded (including the settlement processes), and how often the securities are priced and the program audited.
- A description of who may invest in the program, how often, what size deposit and withdrawal are allowed.
- A schedule for receiving statements and portfolio listing.
- A fee schedule and when and how it is assessed.
- Is the pool/fund eligible for bond proceeds and/or will it accept such proceeds?

Short-Term Portfolio Diversification

The City will diversify use of investment instruments to avoid incurring unreasonable risks inherent in over investing in specific instruments, individual financial institutions or maturities.

Where this section does not specify a limitation on the term or remaining maturity at the time of the investment, no investment will be made in any security which at the time of the investment has a term remaining to maturity in excess of five years, unless the City Council has granted express authority to make that investment either specifically or as part of an investment program and approved by the City Council no less than three months prior to the investment.

Permitted Investments	Maximum Maturity	Percent of Portfolio
U.S. Treasury Obligations (Bills, notes and bonds)	5 Years	100%
U.S. Government Agency Securities and Instrumentalities	5 Years	100%
Bankers Acceptances	180 days	40%
Certificates of Deposit	5 Years	100%
Negotiable Certificates of Deposit	5 Years	30%
Commercial Paper	270 days	40%
California State Local Agency Investment Fund	Indefinite	100%
Passbook Deposits	Indefinite	100%
Repurchase Agreements	Not Authorized	N/A
Reverse Repurchase agreements	Not Authorized	N/A
Mutual Funds	Indefinite	20%
Medium Term Notes	5 Years	30%

INVESTMENT POLICY

The City Treasurer will not invest in Repurchase Agreements and Reverse Repurchase agreements. Pooled funds invested for the City by entities such as California State Local Agency Investment Fund, and NCPA may invest in repurchase and reverse repurchase agreements. If repurchase agreements are legal and authorized, by policy, a Master Repurchase Agreement must be signed with the bank or dealer.

Diversification by Financial Institution

Bankers' Acceptances (Bas)

No more than 25% of the total portfolio with any one institution.

Certificates of Deposit (CDs)

No more than 33% of the total portfolio with any one institution.

California State Local Agency Investment Fund

No more than \$40 million in any one account, effective January 1, 2002.

Maturity Scheduling

Investment maturities for operating funds shall be scheduled to coincide with projected cash flow needs, taking into account large routine expenditures (payroll, bond payments) as well as considering sizable blocks of anticipated revenue (taxes, franchise fees). Maturities in this category will be timed to comply with the following guidelines:

Under 30 days	10% minimum
Under 90 days	25% minimum
Under 270 days	50% minimum
Under 1 year	75% minimum
Under 18 months	90% minimum
Under 2 years	95% minimum
Under 5 years	100% minimum

Long-Term Portfolio Diversification

Investments and diversification for the long-term portfolio will be the same as the short-term portfolio. Maturity scheduling will be timed according to anticipated need. For example, investment of capital project funds will be timed to meet contractor payments, usually for a term not to exceed three years. Investment of prepaid assessment funds will be tied to bond payment dates, after cash flow projections are made using a forecasting model which considers prepayment rate, delinquency rate, interest on bonds and income on investments.

11. BANKS AND SECURITY DEALERS

The Treasurer will consider the credit worthiness of institutions in selecting financial institutions for the deposit or investment of City funds. These institutions will be monitored to ensure their continued stability and credit worthiness.

INVESTMENT POLICY

Investment transactions will only be made with pre-approved financial institutions. Banks will provide their most recent Consolidated Report of Condition ("call report") at the request of the Treasurer.

The Treasurer will maintain a list of financial institutions authorized to provide investment services. In addition, a list will be maintained of approved security brokers/dealers selected for credit worthiness, who maintains an office in the State of California. This includes primary dealers or regional dealers that qualify under Securities and Exchange Commission Rule 15C3-1.

All financial institutions and broker/dealers who desire to become qualified bidders for investment transactions must supply the Treasurer with the following:

- Audited financial statements
- Proof of National Association of Security Dealers Certification.
- Trading Resolution
- Proof of State Registration
- Completed broker/dealer questionnaire
- Certification of having read the City of Lodi's investment policy and depository contracts

An annual review of the financial condition and registration of qualified bidders will be conducted by the Treasurer. The City will not normally use more than three qualified dealer/brokers to obtain bids.

12 PURCHASE OF CDs FROM LOCAL INSTITUTIONS

To the extent reasonable and within the limits specified above, the Treasurer may purchase a \$100,000 Certificates of Deposits from each bank and savings and loan institution located within the corporate limits of the City to promote economic development and as a statement of support for those institutions maintaining an office in Lodi. These investments are limited to those institutions which offer Certificates of Deposit insured by the Federal Deposit Insurance Act and have a Community Reinvestment Act rating of satisfactory or above.

To aid in the diversification of the portfolio, Certificates of Deposit of above \$100,000 may be purchased from local institutions provided the investment has the safety, liquidity and a rate of return comparable to that offered from LAIF at the time the original investment is made.

13. SAFEKEEPING AND COLLATERATION

All investment securities purchased by the City will be held in third-party safekeeping by an institution designated as primary agent. The custodian will hold these securities in a manner that establishes the City's right of ownership. The primary agent will issue a safekeeping receipt to the City listing the specific instruments, rate, maturity and other pertinent information.

Deposit type securities (i.e., certificates of deposit) will be collateralized.

INVESTMENT POLICY

Collateral for time deposits in savings and loans will be held by the Federal Home Loan Bank or an approved Agent of Depository. If collateral is government securities, 110% of market value to the face amount of the deposit is required. Promissory notes secured by first mortgages and first trust deeds used as collateral require 150% of market value to the face amount of the deposit. An irrevocable letter of credit issued by the Federal Home Loan Bank of San Francisco requires 105% of market value to the face amount of the public deposit.

The collateral for time deposits in banks should be held in the City's name in the bank's Trust Department, or alternately, in the Federal Reserve Bank. The City may waive collateral requirements for deposits which are fully insured up to \$100,000 by the Federal Deposit Insurance Corporation (FDIC).

The amount of securities placed with an agent of depository will at all times be maintained in accordance with California Government Code 53652.

14. ADMINISTRATION

The following administrative policies will be strictly observed:

a. **Payment**

All transactions will be executed on a delivery versus payment basis which should be done by the City's safekeeping agent.

b. **Bid**

A competitive bid process, when practical, will be used to place all investment purchases. If a specific maturity date is required, either for cash flow purposes or for conformance to maturity guidelines, bids will be requested for instruments which meet the maturity requirement. If no specific maturity is required, a market trend (yield curve) analysis will be conducted to determine which maturities would be most advantageous.

c. **Wire Transfers**

All wire transfers will be approved by the Treasurer or Revenue Manager. The City's bank will verify each transaction with a predetermined City employee other than the individual sending the wire transfer.

Pre-formatted wire transfers will be used to restrict the transfer of funds with preauthorized accounts only.

INVESTMENT POLICY

d. **Confirmations**

Receipts for confirmation of a purchase of authorized securities should include the following information: trade date; par value; maturity; rate; price; yield; settlement date; description of securities purchased; net amount due; third-party custodial information. Confirmations of all investment transactions are to be received by the Treasurer within three business days.

e. **Pooled Cash**

The City will consolidate into one bank account and invest on a pooled concept basis. Interest earnings will be allocated monthly based on current cash balances.

INTERNAL CONTROL

INTERNAL CONTROLS

GENERAL

Through this system of internal control, the City is adopting procedures and establishing safeguards to prevent or limit the loss of funds invested or held for investment due to errors, losses, misjudgments and improper acts. Internal control procedures are not intended to address every possible situation but are intended to provide a reasonable and prudent level of protection for the City's funds.

1. Objectives

These procedures and policies are established to ensure:

- the orderly and efficient conduct of investment practices, including adherence to investment policies
- the safeguarding of surplus cash
- the prevention or detection of errors and fraud
- the accuracy and completeness of investment records
- the timely preparation of reliable investment reports

2. General Control Policies

The following policies are to be used to safeguard investments:

- **Organization**

A description of responsibilities and procedures for the investment of City funds, lines of authority and reporting requirement will be maintained.

- **Personnel**

Only qualified and assigned personnel will be authorized to approve investment transactions; make and liquidate investments; maintain investment records; and maintain custody of negotiable instruments. Personnel assigned responsibility for the investment of City surplus funds will maintain their professional qualifications by continued education and membership in professional associations.

- **Segregation of functions**

No one having general ledger functions will have responsibility for the investment of City funds.

- **Safekeeping**

All securities are to be held in the name of the City of Lodi. The City will contract with a third party, usually a bank, to provide custodial services and securities safekeeping. Although a cost is involved, the risk of losing physical securities outweighs the fees involved. Preference should be given to custodial services which include reporting services as part of their service, including marking the portfolio to market value, performance evaluation and internal reporting.

INTERNAL CONTROLS

- **Reconciliation of records**

Regular and timely reconciliation will be made of detailed securities records with the general ledger control account.

- **Performance evaluation**

Performance statistics will be maintained and reported monthly as provided in the Investment Policies. The indices to be used is the rate of return for the one-year U.S. Treasury Bill and the annual rate of return for the Local Agency Investment Fund (LAIF) managed by the State Treasurer's Office.

PROCEDURES

1. **Assigned Responsibilities**

a. City Council responsibilities:

- Adoption of City's investment policies by Resolution
- Review and evaluation of investment performance

b. Finance Director/Treasurer duties and responsibilities:

- Formulating, recommending and implementing the City's investment policies.
- Approves all investment transactions prior to execution of any transaction.
- Approves broker/dealer arrangements.

c. Revenue Manager duties and responsibilities:

- Recommends broker/dealer arrangements
- Recommends investments
- Executes investment transactions
- Maintains records of all investment transactions
- Prepares monthly investment report for City Council review
- Prepare fiscal year end investment reports for City's independent audit firm review
- Review's financial condition of the City's depositories (banks) at least annual for compliance with collateralization requirements under government code and financial condition and reports results to City Treasurer.

d. Accounting Manager duties and responsibilities:

- Maintains general ledger control account and duplicate records of investment transactions.
- Verifies investment records and reconciles detailed securities records with general ledger control accounts.

e. City's independent audit firm.

- Will review the City's investment policies and procedures and make appropriate recommendations and findings as to compliance and steps to be taken to improve internal controls.

TREASURY FUNCTION RESPONSIBILITIES

FUNCTION	RESPONSIBILITIES
1. Recommendations:	
<ul style="list-style-type: none"> • Recommends broker/dealer arrangements • Recommends investments 	Revenue Manager Revenue Manager
2. Authorization of Investment Transactions	
<ul style="list-style-type: none"> • Formal investment policy prepared by • Formal investment policy approved by • Investment transactions approved by • Broker/deal arrangements approved by 	Finance Director/Treasurer City Council Finance Director/Treasurer Finance Director/Treasurer
3. Execution of Investment Transactions	Revenue Manager
4. Recording of Investment Transactions	
<ul style="list-style-type: none"> • Recording of transactions in Treasurer's records • Recording of transactions in Accounting records 	Revenue Manager Accounting Manager
5. Safeguarding of assets and records	
<ul style="list-style-type: none"> • Maintenance of Treasurer's records • Reconciliation of Treasurer's records to accounting records • Review of (a) financial institution's financial condition, (b) safety, liquidity, and potential yields of investment instruments, and (c) reputation and financial condition of investment brokers • Periodic reviews of collateral • Review and evaluation of performance 	Revenue Manager Accounting Manager Revenue Manager Revenue Manager City Council
6. Preparation of reports	Revenue Manager
7. Periodic review of investment portfolio for conformance to City's investment policy	City's Audit Firm

SAMPLE INVESTMENT FORMS

Cycle to:
James R Krueger
Finance Director _____
Accounting Manager _____

Transaction

Finance Director:

Revenue Manager: _____

Approval Date: _____

Transaction Date: _____

LAIF BALANCE

BROKER/DEALER QUESTIONNAIRE
CITY OF LODI TREASURER'S OFFICE
P. O. Box 3006
Lodi, California 95241

1. Name: _____
2. Branch Address: _____
3. Telephone No: _____
4. Primary Account Representative _____
Name: _____
Title: _____
Telephone #: _____
5. Is your firm a primary dealer in US Government Securities Y/N _____
6. Identify the personnel who will be trading with or quoting securities to our agency's employees:

Name	Title	Telephone #
_____	_____	_____
_____	_____	_____
_____	_____	_____
7. Ntl. Headquarters Address:
Corporate Contact: _____
Phone: _____
Compliance Officer (Name, Address, Phone):

8. What was your firm's total volume in US Government and Agency securities trading last calendar year?

9. Which securities are offered by your firm?
- | | |
|---|--|
| <input type="checkbox"/> US Treasury | <input type="checkbox"/> Negotiable CDs |
| <input type="checkbox"/> US Treasury Notes | <input type="checkbox"/> Commercial Paper |
| <input type="checkbox"/> US Treasury Bonds | <input type="checkbox"/> BAs Domestic |
| <input type="checkbox"/> Agencies (specify) | <input type="checkbox"/> BAs Foreign |
| | <input type="checkbox"/> Repurchase Agreements |
| | <input type="checkbox"/> Reverse Repurchase Agreements |
10. List your personnel who have read the City of Lodi Treasurer's Investment Policy
11. Please identify your public-sector clients in our geographical area who are most comparable to our government with which you currently do business.
12. Have any of your clients ever sustained a loss on a securities transaction arising from misunderstanding or misrepresentation of the risk characteristics of the instrument? If so, please explain.
13. Have any of your public-sector clients ever reported to your firm, its officers or employees, orally or in writing, that they sustained a loss exceeding 10% of the original purchase price in a single year on any individual security purchased through your firm? Explain.
14. Has your firm ever been subject to a regulatory or state/federal agency investigation for alleged improper, fraudulent, disreputable or unfair activities related to the sale of securities? Have any of your employees ever been so investigated? Explain.
15. Has a public sector client ever claimed in writing that your firm or members of your firm were responsible for investment losses?
16. Please include samples of research reports that your firm regularly provides to public-sector clients.

17. Please explain your normal delivery process. Who audits these fiduciary systems?
18. Please provide certified financial statements and other indicators regarding your firm's capitalization.
19. Describe the capital line and trading limits that support/limit the office that would conduct business with our government.
20. What training would you provide to our employees and investment officers?
21. Has your firm consistently complied with the Federal Reserve Bank's capital adequacy guidelines? As of this date, does your firm comply with the guidelines? Has your capital position ever fallen short? By what factor (1.5x, 2x, etc.) Does your firm presently exceed the capital adequacy guidelines, measure of risk? Include certified documentation of your capital adequacy as measured by the Federal Reserve standards.
22. Do you participate in the Securities Investor Protection Corporation (SIPC) insurance program? If not, why?
23. What portfolio information do you require from your clients?
24. What reports, confirmations and paper trail will we receive?
25. Enclose a complete schedule of fees and charges for various transactions.
26. How many and what percentage of your transactions failed last month? Last year?
27. Describe the precautions taken by your firm to protect the interest of the public when dealing with governmental agencies as investors.
28. Is your firm licensed by the State of California as a broker/dealer? Y/N

CERTIFICATION ATTACHED

CERTIFICATION

I hereby certify that I have personally read the latest adopted resolution of investment policies and objectives of the City of Lodi Treasurer and the California Government Codes pertaining to the investments of the City of Lodi, and have implemented reasonable procedures and a system of controls designed to preclude imprudent investment activities arising out of transactions conducted between our firm and the City of Lodi. All sales personnel will be routinely informed of the City of Lodi's investment objectives, horizon, outlook, strategies and risk constraints whenever we are so advised. We pledge to exercise due diligence in informing the City of Lodi of all foreseeable risks associated with financial transactions conducted with our firm. I attest to the accuracy of our responses to your questionnaire.

SIGNED _____ TITLE _____ DATE _____

COUNTERSIGNED _____ DATE _____
(Person in charge of government securities operations)

NOTE: Completion of Questionnaire is only part of the City of Lodi's Certification process and DOES NOT guarantee that the applicant will be approved to do business with the City of Lodi.

On this _____ day of _____, 20____ before me

the undersigned Notary Public, personally appeared

() personally known to me

() proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) subscribed to the within instrument, and acknowledged that _____ executed it.

State of _____

County of _____

WITNESS my hand and official seal.

Notary's Signature

GLOSSARY

GLOSSARY OF COMMONLY USED FINANCIAL TERMS

AGENT: an agent is a firm or individual, which executes orders for others or acts on behalf of others (the principal). The agent is subject to the control of the principal and does not have title to the principal's property. The agent may charge a fee or commission for this service.

AGENCIES: federal agency securities and/or Government-sponsored enterprises.

AGREEMENT: an agreement is an arrangement or understanding between individual traders to honor market quotes within predetermined limits on dollar amount and size.

AMORTIZATION: a straight-line reduction of debt by means of periodic payments sufficient to meet current interest charges and to pay off the debt at maturity.

ARBITRAGE: a technique used to take advantage of price differences in separate markets. This is accomplished by purchasing securities, negotiable instruments or currencies in one market for immediate sale in another market at a better price.

ASKED: the price at which securities are offered.

AT THE MARKET: a trading term for the buying or selling of securities at the current market price rather than at a predetermined price.

BANKERS ACCEPTANCE (BA): a bearer time draft for a specified amount payable on a specified date. An individual or business seeking to finance domestic or international trade draws it on a bank. Commodity products collateralize the BA. Sale of goods is usually the source of the borrower's repayment to the bank. The bank finances the borrower's transaction and then often sells the BA on a discount basis to an investor. At maturity, the bank is repaid and the investor holding the BA receives par value from the bank.

BASIS PRICE: price expressed in yield-to-maturity or the annual rate of return on the investment.

BEAR MARKET: a period of generally pessimistic attitudes and declining market prices. (Compare: Bull market)

BELOW THE MARKET: a price below the current market price for a particular security.

BID AND ASKED OR BID AND OFFER: the price at which an owner offers to sell (asked or offer) and the price at which a prospective buyer offers to buy (bid). It is often referred to as a quotation or a quote. The difference between the two is called the spread.

BOND: an interest-bearing security issued by a corporation, government, governmental agency or other body, which can be executed through a bank or trust company. A bond is a form of debt with an interest rate, maturity, and face value, and is usually secured by specific assets. Most bonds have a maturity of greater than one year, and generally pay interest semiannually.

GLOSSARY OF COMMONLY USED FINANCIAL TERMS

BOND ANTICIPATION NOTE (BAN): short-term notes sold by states and municipalities to obtain interim financing for projects which will eventually be financed by the sale of bonds.

BOND DISCOUNT: the difference between a bond's face value and a selling price, when the selling price is lower than the face value.

BOND RATING: the classification of a bond's investment quality. (See: Rating).

BOND RESOLUTION: a legal order or contract by a governmental unit to authorize a bond issue. A bond resolution carefully details the rights of the bondholders and the obligation of the issuer.

BOOK VALUE: the amount at which a security is carried on the books of the holder or issuer. The book value is often the cost, plus or minus amortization, and may differ significantly from the market value.

BROKER: a middleman who brings buyers and sellers together and handles their orders, generally charging a commission for this service. In contrast to a principal or a dealer, the broker does not own or take a position in securities.

BULL MARKET: a period of generally optimistic attitudes and increasing market prices. (Compare: Bear Market).

BUYERS MARKET: a market where supply is greater than demand, giving buyers an advantage in purchase price and terms.

CALL: an option to buy a specific asset at a certain price within a particular period.

CALLABLE: a feature which states a bond or preferred stock may be redeemed by the issuer prior to maturity under terms designated prior to issuance.

CALL DATE: the date on which a bond may be redeemed before maturity at the option of the issuer.

CALLED BONDS: bonds redeemed before maturity.

CALL PREMIUM: the excess paid for a bond or security over its face value.

CALL PRICE: the price paid for a security when it is called. The call price is equal to the face value of the security, plus the call premium.

CALL PROVISION: the call provision describes the details by which a bond may be redeemed by the issuer, in whole or in part, prior to maturity. A Security with such a provision will usually have a higher interest rate than comparable, but noncallable securities.

GLOSSARY OF COMMONLY USED FINANCIAL TERMS

CAPITAL GAIN OR LOSS: the amount that is made or lost, depending upon the difference between the sale price and the purchase price of any capital asset or security.

CAPITAL MARKET: the market in which buyers and sellers, including institutions, banks, governments, corporations and individuals, trade debt and equity securities.

CASH SALE: a transaction calling for the delivery and payment of the securities on the same day that the transaction takes place.

CERTIFICATE OF DEPOSIT (CD): debt instrument issued by a bank that usually pays interest. Institutional CD's are issued in denominations of \$100,000 or more. Maturities range from a few weeks to several years. Competitive forces in the marketplace set interest rates.

COLLATERAL: securities or other property, which a borrower pledges for the repayment of a loan. Also refers to securities pledged by a bank to secure deposits of public monies.

COLLATERAL NOTE: a promissory note, which specifically mentions the collateral, pledged by the borrower for the repayment of an obligation.

COMMERCIAL PAPER: short-term obligations with maturities ranging from 2 to 270 days issued by banks, corporations, and other borrowers to investors with temporarily idle cash. Such instruments are unsecured and usually discounted, although some are interest bearing.

COMMISSION: the brokers or agent's fee for purchasing or selling securities for a client.

COUPON: the annual rate of interest that a bond's issuer promises to pay the bondholder on the bond's face value.

COVENANT: a pledge in the bond resolution or indenture of the issuing government to perform in a way that may benefit the bondholders, or to refrain from doing something that might be disadvantageous to them.

COVER: the spread between the winning bid (or offer) and the next highest bid (or the next lowest offer). It is useful as a basis for evaluation of the bids.

COVERAGE RATIO: the ratio of income available to pay a specific obligation versus the total amount obligated. This is a measure of financial stability.

CREDIT ANALYSIS: a critical review and appraisal of the economic and financial condition of a government agency or corporation. The credit analysis evaluates the issuing entity's ability to meet its debt obligations and the suitability of such obligations for underwriting or investment.

GLOSSARY OF COMMONLY USED FINANCIAL TERMS

CURRENT MATURITY: amount of time left to the maturity of an obligation.

DEBENTURE: a bond secured by the general credit of the issuer rather than being backed by a specific lien on property as in mortgage bonds.

DEBT COVERAGE: this term is normally used in connection with revenue and corporate bonds. It indicates the margin of safety for payment of debt, reflecting the number of times by which earnings for a certain period of time exceed debt payable during the same period.

DEBT LIMIT (OR CEILING): the maximum amount of debt that can legally be acquired under the debt-incurring power of a state or municipality.

DEBT SERVICE: interest and principal obligation on an outstanding debt. This is usually for a one-year period.

DEFAULT: failure to pay principal or interest promptly when due.

DELIVERY VERSUS PAYMENT: securities industry procedure, common with institutional accounts, whereby delivery of securities sold is made to the buying customer's bank in exchange for payment, usually in the form of cash. (Institutions are required by law to require "assets of equal value" in exchange for delivery.) Also called Cash on Delivery.

DERIVATIVE: contracts written between a City and a counter party such as a bank, insurance company or brokerage firms. Their value is derived from the value of some underlying assets such as Treasury Bonds or a market index such as LIBOR. Derivatives are used to create financial instruments to meet special market needs. Two contrasting reasons for the use of derivatives are: 1) to limit risk or transfer it to those willing to bear it; and, 2) to speculate about future interest rates and leverage in hope of increasing returns.

DISCOUNT: the difference between the cost price of a security and its maturity when quoted at lower than face value. A security selling below original offering price shortly after sale also is considered to be at a discount.

DIVERSIFICATION: dividing investment funds among a variety of securities offering independent returns.

DUE DILIGENCE: exercising of due professional care in the performance of duties.

FACE VALUE: the principal amount owed on a debt instrument. It is the amount on which interest is computed and represents the amount that the issuer promises to pay at maturity.

FANNIE MAE: trade name for the Federal National Mortgage Association.

GLOSSARY OF COMMONLY USED FINANCIAL TERMS

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC): federal agency established in 1933 that guarantees (within limits) funds on deposit in member banks and performs other functions such as making loans to or buying assets from members banks to facilitate mergers or prevent failures.

FEDERAL FUNDS RATE: the rate of interest at which Fed funds are traded. This rate is currently pegged by the Federal Reserve through open-market operations.

FEDERAL HOME LOAN BANKS (FHLB): government sponsored wholesale banks (currently 12 regional banks) which lend funds and provide correspondent banking services to member commercial banks, thrift institutions, credit unions and insurance companies. The mission of the FHLBs is to liquefy the housing related assets of its members who must purchase stock in their district Bank.

FEDERAL NATIONAL MORTGAGE ASSOCIATION (FNMA): FNMA like GNMA was chartered under the Federal National Mortgage Association Act in 1938. FNMA is a federal corporation working under the auspices of the Department of Housing and Urban Development (HUD). It is the largest single provider of residential mortgage funds in the United States. Fannie Mae, as the corporation is called, is a private stockholder-owned corporation. The corporation's purchases include a variety of adjustable mortgages and second loans, in addition to fixed-rate mortgages. FNMA's securities are also highly liquid and are widely accepted. FNMA assumes and guarantees that all security holders will receive timely payment of principal and interest.

FEDERAL OPEN MARKET COMMITTEE (FOMC): consists of seven members of the Federal Reserve Board and five of the twelve Federal Reserve Bank Presidents. The President of the New York Federal Reserve Bank is a permanent member, while the other Presidents serve on a rotating basis. The Committee periodically meets to set Federal Reserve guidelines regarding purchases and sales of Government Securities in the open market as a means of influencing the volume of bank credit and money.

FEDERAL RESERVE SYSTEM: the central bank of the United States created by Congress and consisting of a seven member Board of Governors in Washington, D.C., 12 regional banks and about 5,700 commercial banks that are members of the system.

FIDUCIARY: an individual or group, such as a bank or trust company, which acts for the benefit of another party or to which certain property is given to hold in trust, according the trust agreement.

FISCAL YEAR: an accounting or tax period comprising any twelve-month period. The City's fiscal year starts July 1.

FREDDIE MAC: trade name for the Federal Home Loan Mortgage Corporation.

GLOSSARY OF COMMONLY USED FINANCIAL TERMS

FULL FAITH AND CREDIT: the unconditional guarantee of the United States government backing a debt for repayment.

GENERAL OBLIGATION BONDS (GO's): bonds secured by the pledge of the municipal issuer's full faith and credit, usually including unlimited taxing power.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION (GNMA or Ginnie Mae): securities influencing the volume of bank credit guaranteed by GNMA and issued by mortgage bankers, commercial banks, savings and loan associations, and other institutions. Security holder is protected by full faith and credit of the U.S. Government. Ginnie Mae securities are backed by the FHA, VA or FmHA mortgages. The term "pass-through" is often used to describe Ginnie Maes.

HOLDER: the person or entity, which is in possession of a negotiable instrument.

INDEBTEDNESS: the obligation assumed by a borrower, guarantor, endorser, etc. to repay funds which have been or will be paid out on the borrower's behalf.

INDENTURE: a written agreement used in connection with a security issue. The document sets the maturity date, interest rate, security and other terms for both the issue holder, issuer and, when appropriate, the trustee.

INTEREST RATE: the interest payable each year on borrowed funds expressed as a percentage of the principal.

INVESTMENT: use of capital to create more money, either through income-producing vehicles or through more risk-oriented ventures designed to result in capital gains.

INVESTMENT PORTFOLIO: a collection of securities held by a bank, individual, institution, or government agency for investment purposes.

IRREVOCABLE LETTER OF CREDIT: instrument or document issued by a bank guaranteeing the payment of a customer's drafts up to a stated amount for a specified period. It substitutes the bank's credit for the buyer's and eliminates the seller's risk. This arrangement cannot be changed or terminated by the one who created it without the agreement of the beneficiary.

ISSUE PRICE: the price at which a new issue of securities is put on the market.

ISSUER: any corporation or governmental unit, which borrows money through the sale of securities.

GLOSSARY OF COMMONLY USED FINANCIAL TERMS

JOINT AND SEVERAL OBLIGATION: a guarantee to the holder in which the liability for a bond or note issue may be enforced against all parties jointly or any one of them individually so that one, several or all may be held responsible for its payment.

LAIF: trade name for California State Local Agency Investment Fund.

LEGAL INVESTMENT: a list of securities in which certain institutions and fiduciaries may invest as determined by regulatory agencies.

LEGAL OPINION: an opinion concerning the legality of a bond issue, usually written by a recognized law firm specializing in the approval of public borrowings.

LIQUIDITY: a liquid asset is one that can be converted easily and rapidly into cash without a substantial loss of value. In the money market, a security is said to be liquid if the spread between bid and asked prices is narrow and reasonable size can be done at those quotes.

MARKETABILITY: the measure of ease with which a security can be sold in the secondary market.

MARKET ORDER: an order to buy or sell securities at the prevailing bid or ask price on the market.

MARKET VALUE: the price at which a security is trading and could presumably be purchased or sold.

MARKET VS. QUOTE: quote designates the current bid and ask on a security, as opposed to the price at which the last security order was sold.

MASTER REPURCHASE AGREEMENT: a written contract covering all future transactions between the parties to repurchase---reverse repurchase agreements that establishes each party's rights in the transactions. A master agreement will often specify, among other things, the right of the buyer-lender to liquidate the underlying securities in the event of default by the seller-borrower.

MATURITY: the date that the principal or stated value of debt instrument becomes due and payable. It is also used as the length of time between the issue date and the due date.

MONEY MARKET: the market in which short-term debt instruments (bills, commercial paper, bankers' acceptances, etc.) are issued and traded.

MORTGAGE BOND: a bond secured by a mortgage on property. The value of the property used as collateral usually exceeds that of the mortgage bond issued against it.

GLOSSARY OF COMMONLY USED FINANCIAL TERMS

NEGOTIABLE: a term used to designate a security, the title to which is transferable by delivery. Also used to refer to the ability to exchange securities for cash or near-cash instruments.

NO PAR VALUE: a security issued with no face or par value.

NON-NEGOTIABLE: a security whose title or ownership is not transferable through a simple delivery or endorsement. (See: Negotiable.)

OBLIGATION: a responsibility for paying back a debt.

OFFER: the price of a security at which a person is willing to sell.

OFFERING: placing securities for sale to buyers. The offering usually states the price and terms.

OPEN MARKET OPERATIONS: purchases and sales of government and certain other securities in the open market by the New York Federal Reserve Bank as directed by the FOMC in order to influence the volume of money and credit in the economy. Purchases inject reserves into the bank system and stimulate growth of money and credit; sales have the opposite effect. Open market operations are the Federal Reserve's most important and most flexible monetary policy tool.

PAR VALUE: the stated or face value of a security expressed as a specific dollar amount marked on the face of the security; the amount of money due at maturity. Par value should not be confused with market value.

PAYING AGENT: the agency, usually a commercial bank, which dispenses the principal and interest payable on a maturing issue.

PORTFOLIO: the collection of securities held by an individual or institution.

PREMIUM: the amount by which the price paid for a security exceeds the par value. Also, the amount that must be paid over the par value to call an issue before maturity.

PRIMARY DEALER: a group of government securities dealers who submit daily reports of market activity and positions and monthly financial statements to the Federal Reserve Bank of New York and are subject to its informal oversight. Primary dealers include Securities and Exchange Commission (SEC)-registered securities broker-dealers, banks, and a few unregulated firms.

PRINCIPAL: the face or par value of an instrument. It does not include accrued interest.

GLOSSARY OF COMMONLY USED FINANCIAL TERMS

PRUDENT MAN RULE: an investment standard established in 1630. It states that a trustee who is investing for another should behave in the same way as a prudent individual of discretion and intelligence who is seeking a reasonable income and preservation of capital.

QUOTATION (QUOTE): the highest bid to buy or the lowest offer to sell a security in any market at a particular time.

RATE OF RETURN: the yield obtainable on a security based on its purchase price or its current market price. This may be the amortized yield to maturity on a bond the current income returns.

RATING: the designation used by investors' services to rate the quality of a security's creditworthiness. Moody's ratings range from the highest Aaa, down through Aa, A, Baa, Ba, B, etc., while Standard and Poor's ratings range from the highest AAA, down through AA, A, BBB, BB, B, etc.

REFINANCING: rolling over the principal on securities that have reached maturity or replacing them with the sale of new issues. The object may be to save interest costs or to extend the maturity of the loan.

REGISTERED BOND: a bond whose principal and/or interest is payable only to that person or organization which is registered with the issuer. This form is not negotiable and it can be transferred only when endorsed by the registered owner.

REPURCHASE AGREEMENT (REPO): agreement between a seller and a buyer, usually of U.S. Government securities, whereby the seller agrees to repurchase the securities at an agreed upon price and, usually, at a stated time. The attraction of repos is the flexibility of maturities that makes them an ideal place to "park" funds on a very temporary basis. Dealers also arrange *reverse repurchase agreements*, whereby they agree to buy the securities and the investor agrees to repurchase them at a later date.

REVENUE ANTICIPATION NOTES (RAN): short-term notes sold in anticipation of receiving future revenues. The notes are to be paid from the proceeds of those revenues.

REVENUE BOND: a state or local bond secured by revenues derived from the operations of specific public enterprises, such as utilities. Such bonds are not generally backed by the taxation power of the issuer unless otherwise specified in the bond indenture.

SAFEKEEPING: service banks offer to customers for a fee, where securities are held in the bank's vaults for protection.

SECONDARY MARKET: a market made for the purchase and sale of outstanding issues following the initial distribution.

GLOSSARY OF COMMONLY USED FINANCIAL TERMS

SECURED DEPOSIT: bank deposits of state or local government funds which, under the laws of certain jurisdictions, must be secured by the pledge of acceptable securities.

SECURITIES: investment instruments such as bonds, stocks and other instruments of indebtedness or equity.

SECURITIES & EXCHANGE COMMISSION: agency created by Congress to protect investors in securities transactions by administering securities legislation.

SERIAL BOND: bonds of the same issue, which have different maturities, coming due over a number of years rather than all at once. This allows the issuer to retire the issue in small amounts over a long period of time.

SETTLEMENT DATE: date by which an executed order must be settled, either by buyer paying for the securities with cash or by a seller delivering the securities and receiving the proceeds of the sale for them.

SINKING FUND: a reserve fund set aside over a period of time for the purpose of liquidating or retiring an obligation, such as a bond issue, at maturity.

SPECIAL ASSESSMENT BONDS: bonds that are paid back from taxes on the property that is benefiting from the improvement being financed. The issuing governmental entity agrees to make the assessments and earmark the tax proceeds to repay the debt on these bonds.

SPREAD: the difference between two figures or percentages. For example, it may be the difference between the bid and asked prices of a quote, or between the amount paid when bought and the amount received when sold.

TAX ANTICIPATION NOTES (TAN): short-term notes issued by states or municipalities to finance current operations in anticipation of future tax collections which would be used to repay the debt.

TAX-EXEMPT BONDS: interest paid on municipal bonds issued by state and local governments or agencies is usually exempt from federal taxes, and in some cases, the state and/or local taxes. The interest rate paid on these bonds is generally lower than rates on non-exempt securities.

TERMS: the conditions of the sale or purchase of a security.

TREASURY BILL (T-BILL) : a non-interest bearing discount security issued by the U.S. Treasury to finance the national debt. Most bills are issued to mature in three months, six months, or one year.

GLOSSARY OF COMMONLY USED FINANCIAL TERMS

TREASURY BONDS: long-term coupon-bearing U.S. Treasury securities issued as direct obligations of the U.S. Government and having initial maturities of more than 10 years.

TREASURY NOTES: medium-term coupon-bearing U.S. Treasury securities issued as direct obligations of the U.S. Government and having initial maturities from two to 10 years.

TRUSTEE: a bank designated as the custodian of funds and the official representative for bondholders.

UNDERWRITER: a dealer bank or other financial institution, which arranges for the sale and distribution of a large batch of securities and assumes the responsibility for paying the net purchase price.

UNIFORM NET CAPITAL RULE: securities and Exchange Commission requirement that member firms as well as nonmember broker-dealers in securities maintain a maximum ratio of indebtedness to liquid capital of 15 to 1; also called net capital rule and net capital ratio. Indebtedness covers all money owed to a firm, including margin loans and commitments to purchase securities, one-reason new public issues are spread among members of underwriting syndicates. Liquid capital includes cash and assets easily converted into cash.

YIELD: the annual rate of return on an investment, expressed as a percentage of the investment.

YIELD CURVE: graph showing the term structure of interest rates by plotting the yields of all bonds of the same quality with maturities ranging from the shortest to the longest available. The resulting curve shows if short-term interest rates are higher or lower than long-term rates. For the most part, the yield curve is positive (short-term rates are lower), since investors who are willing to tie up their money for a longer period of time usually are compensated for the extra risk they are taking by receiving a higher yield.

RESOLUTION

RESOLUTION NO. 2005-_____

A RESOLUTION OF THE LODI CITY
COUNCIL ADOPTING THE CITY OF LODI
ANNUAL INVESTMENT POLICY AND
INTERNAL CONTROL GUIDELINES

=====

WHEREAS, pursuant to California Government Code §53601, the City Council is required to annually review and adopt the City of Lodi Investment Policy; and

WHEREAS, the Policy attached hereto marked Exhibit A, is in compliance with State laws governing the investment of local agency funds and provides internal control guidelines to protect the funds of the City from misappropriation, speculation and fraud.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Lodi has reviewed and hereby adopts the City of Lodi Annual Investment Policy and Internal Control Guidelines, which shall be effective this date.

Dated: November 16, 2005

=====

I hereby certify that Resolution No. 2005-_____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held November 16, 2005, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

SUSAN J. BLACKSTON
City Clerk

2005-_____



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Adopt Resolution Approving Specifications, Authorizing Bids for Blakely Park Pool Alarm, 1050 South Stockton Street, and Authorizing the City Manager to Award or Reject the Contract up to an estimated \$16,000

MEETING DATE: November 16, 2005

PREPARED BY: Parks and Recreation Director

RECOMMENDED ACTION: That the City Council adopt a resolution approving specifications, authorizing bids for Blakely Park pool alarm, 1050 South Stockton Street, and authorizing the City Manager to award or reject the contract up to an estimated \$16,000.

BACKGROUND INFORMATION: This project was before the City Council at their regular meeting on August 3, 2005. At that time Council had concerns about the project enough that no action was taken on the item and requested that it be brought back to Council at a later date. The concerns listed below are addressed in the attachments included with this communication.

Council Concerns:

1. How often do we experience issues that the proposed alarm system would address?
2. What is the extent of budget impact related to these issues?
3. Why is staff recommending spending almost twice the engineer's estimate?

This project consisted of installing and monitoring an alarm system at Blakely Park in the pool area (see attached drawing for pool area layout). The alarm system request consisted of:

- (1) short range beam located in the outdoor pump area
- (4) long environmental outdoor beam sets with 5"x5" steel posts
- (2) custom English language keypads
- (2) partition systems (Public and Parks sections)
- (1) indoor motion detector in Lifeguard's room area
- (1) Control panel with auto arm, 75 or more user codes, 128 events logging for history of activities. Access codes shall have time schedules.
- All wires to be run in EMT and Flex conduit outside
- (1) 7ah back-up power supply battery pack
- (3) door to be contacted
- (1) water sensor in the sump pit to monitor water filing up in the pit area
- Approximately 400 lineal feet of trenching and backfill for underground conduit
- Telephone module for remote access of alarm system
- Contractor must be able to change codes remotely within 2 hours at no additional cost

APPROVED: _____
Blair King, City Manager

- Contractor must be able to provide emergency service within 2 hours at no additional cost
- Contractor shall establish a schedule of testing of the alarm system at least annually
- System must have a warranty period of at least 12 months

From discussions with our current alarm vendor, Alamo Alarm, staff estimated the project cost at \$7000. Staff decided to use a Request for Proposal for this project based on completion time line and staff work load.

RFP's were mailed out by Purchasing Agent, Joel Harris, on May 12, 2005. Joel selected (5) alarm companies for the mailing and additional copies were made available at the Recreation office for contractors who obtained the RFP's information through the newspaper Public Notice.

A mandatory site visit was outlined in the RFP. The schedule date for the contractor visit was 9:00 a.m., Wednesday, June 1, 2005, at the pool location. Four contractors attended the meeting to discuss the scope of work. City staff was also on site to discuss the scope of work and address all questions. The four contractors, who attended were required to sign in at the meeting which made them eligible to submit the RFP for consideration.

The RFP due date, as outlined in the RFP, was 11:00 a.m., Wednesday, June 8, 2005. One of the four eligible contractors submitted a proposal. Matson Alarm Company of Fresno, CA submitted a lump sum bid of \$13,500 and \$40 monitoring cost per month, which would not increase more than 10% per year through 2010.

Typically, a contractor's bid proposal is good for (30) thirty days. The time that had elapsed between the proposal opening and the Council meeting of August 3, 2005, was (40) forty working days. Prior to the Council meeting, Matson Alarm representative Steve Morgan was asked if they would hold their proposal prices. At that time, Mr. Morgan had indicated that for the upcoming Council meeting he would hold the price and encouraged us to move forward in awarding the project to their company.

As you know, the Engineer's Estimate of \$7000 is far short of Matson's bid of \$13,500. The increase in price from the estimate was due to the amount of trenching requirements placed on the contractor which normally they don't do or is done for them by another sub-contractor prior to installing the conduit runs for the alarm wire.

All three non-bidding companies who attended the mandatory site visit were contacted to inquire why they did not bid the project. All three contractors indicated that due to the amount of trenching on the project they decided not to submit a proposal for the project.

Because of lapsed time, the Matson Alarm Company's bid proposal should now be discarded.

Based on the Parks Divisions vandalism reports, there have been three reports of vandalism and two reports of the building being broken into. A monetary value of \$328 was shown on these five reports.

The Lodi Police Department informed us that twice in 2005 it has responded to calls about juveniles in the pool area after hours of operation.

Furthermore, most recently and in the past, staff has noticed that the pool was being used without the Departments knowledge. People have been jumping the fence to gain access to the water and restrooms. On occasion, staff has arrived at the facility during the early A.M. and has found evidence of the facility having been used without the Department's knowledge. This type of use, by the way, is without lifeguards on duty.

Records show that we have not spent a large amount of money on the above-mentioned issues; but staff is genuinely concerned about the potential of someone drowning or accidentally incurring bodily harm from chemicals kept on site.

In conclusion, it is the opinion of staff that the alarm system would protect City property and protect anyone accessing the pool and/or property illegally. Knowing that the Matson Alarm bid is no longer valid, staff recommends that the process start over.

This bid has been divided into two items. The base bid would be a lump sum item to provide all labor, materials, and equipment to install the alarm system. The second bid item would be the contractor's monitoring cost per month.

Parks and Recreation staff is requesting that Table 3-1 of the current Purchasing Guidelines be applied to the project noted above.

FISCAL IMPACT: There is no direct impact to the Parks and Recreation Department budget for installation of the system. The Parks and Recreation budget will absorb the direct cost of the monthly monitoring. CDBG funds will be supporting the installation of this project in its entirety.

FUNDING: 2004/2005 CDBG Allocation: \$13,530

James R. Krueger, Finance Director

Tony C. Goehring
Parks and Recreation Director

Joseph Wood
Community Improvement Manager

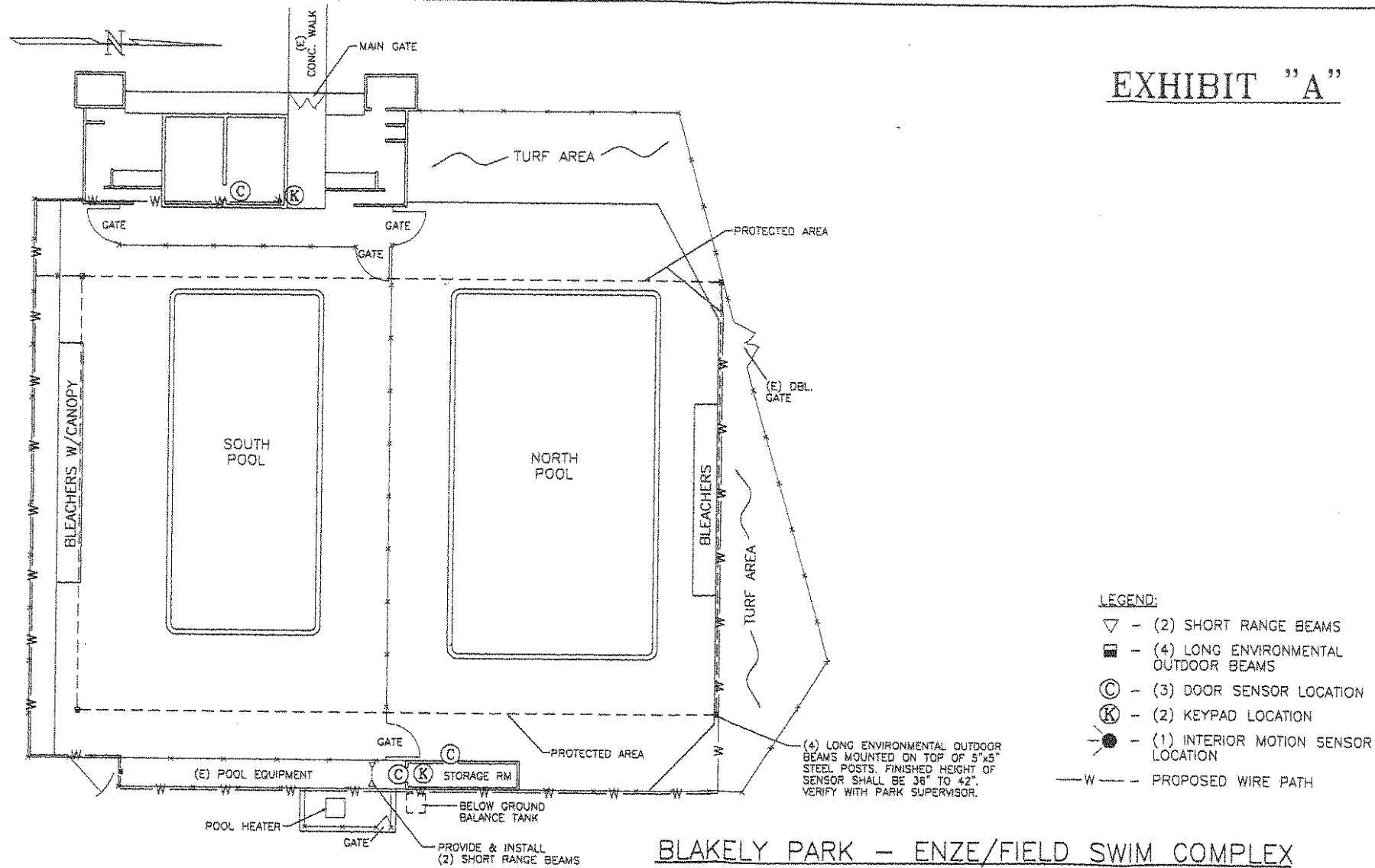
Prepared by Steve Virrey, Parks Project Coordinator

TCG/SV:tl

Attachments

cc: Steve Schwabauer, City Attorney
Joel Harris, Purchasing Officer
Joseph Wood, Community Improvement Manager
Steve Dutra, Park Superintendent
Duane Wright, Park Supervisor

EXHIBIT "A"



RESOLUTION NO. 2005-_____

A RESOLUTION OF THE LODI CITY COUNCIL APPROVING
SPECIFICATIONS, AUTHORIZING BIDS FOR BLAKELY PARK POOL
ALARM, 1050 SOUTH STOCKTON STREET, AND FURTHER
AUTHORIZING THE CITY MANAGER TO AWARD OR REJECT THE
CONTRACT IN AN AMOUNT NOT TO EXCEED \$16,000

=====

WHEREAS, this alarm project was previously approved as part of the Parks and Recreation Department's 2004-05 Community Development Block Grant projects under the title of Blakely Park Improvements; and

WHEREAS, the scope of work consists of installing and monitoring an alarm system at Blakely Park pool complex; and

WHEREAS, the alarm system shall include the installation of exterior grade long- and short-range beams, two English language keypads, one motion detector, one control panel, trenching, conduit, backfill, and cabling. All work will be installed within the existing pool buildings and pool deck area; and

WHEREAS, staff recommends that the City Council approve the specifications, authorize advertisement for bids for the Blakely Park Pool Alarm, 1050 South Stockton Street, and further authorize the City Manager to award or reject the contract in an amount not to exceed \$16,000.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby approve the specifications and authorizes advertisement for bids for Blakely Park Pool Alarm, 1050 South Stockton Street, and

BE IT FURTHER RESOLVED, that the Lodi City Council hereby authorizes the City Manager to award or reject the bid in an amount not to exceed \$16,000.

Dated: November 16, 2005

=====

I hereby certify that Resolution No. 2005-_____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held November 16, 2005, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

SUSAN J. BLACKSTON
City Clerk

2005-_____



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Adopt resolution approving the purchase of mobile computing equipment acquired through the Code Enforcement Grant Program and appropriating funds. (\$36,695.50)

MEETING DATE: November 16, 2005

PREPARED BY: Community Development Director

RECOMMENDED ACTION: That Council grant final approval and authorize the purchase of new Tablet PC computers and related equipment.

BACKGROUND INFORMATION: In April 2003, the Council authorized the Community Development Department's application for grant funding through the Code Enforcement Grant Program (CEGP), offered by the California Department of Housing and Community Development Department.

The use of these grant funds is to purchase materials and equipment to aid the code enforcement personnel in carrying out their activities more effectively and efficiently. The equipment identified in the grant application included a new vehicle, mobile computer equipment and related equipment, wireless technology for those mobile computers, and video surveillance cameras.

The City of Lodi was the last jurisdiction funded through the CEGP, so while we were authorized to purchase the aforementioned equipment, we received only \$51,295 of the requested \$74,264. Due to the reduced funding amount, we have had to scale back portions of our proposed purchases. This reduction of funding impacted the ability to purchase equipment to establish a wireless network. We will instead look to subscribing with a local wireless Internet Service Provider (ISP) for that wireless access.

As of this date, \$14,600 of the CEGP funds has been used to acquire a new vehicle for the Community Improvement Division.

The purchase of the new Tablet PC computers and related equipment will allow code enforcement personnel to access information and carry out much of their duties in the field rather than having to return to the office. This will provide a more effective method of reviewing case information, accessing permit records, and allowing for the documentation of their activities and the printing of documents out in the field.

FISCAL IMPACT: The CEGP provides 100% of the funding for the purchase of this equipment. There will be a monthly cost of approximately \$150 for the subscription to a local wireless ISP.

APPROVED: _____
Blair King, City Manager

FUNDING AVAILABLE: Appropriate \$36,695.50 from Account 1211003, which will be reimbursed from the CEGP funds that the State has allocated for this purpose.

James R. Krueger, Finance Director

Randy Hatch
Community Development Director

RH/jw

cc: City Attorney

RESOLUTION NO. 2005-_____

A RESOLUTION OF THE LODI CITY COUNCIL APPROVING
PURCHASE OF MOBILE COMPUTING EQUIPMENT ACQUIRED
THROUGH THE CODE ENFORCEMENT GRANT PROGRAM,
AND FURTHER APPROPRIATING FUNDS

=====

WHEREAS, in April 2003, the City Council authorized Community Development to submit an application for grant funding through the Code Enforcement Grant Program (CEGP), offered by the California Department of Housing and Community Development Department; and

WHEREAS, the equipment identified in the grant application included a new vehicle, mobile computer equipment and related equipment, wireless technology for those mobile computers, and video surveillance cameras; and

WHEREAS, the City of Lodi was the last jurisdiction funded through the CEGP and received only \$51,295 of the requested \$74,264, and therefore the purchases were scaled back; and

WHEREAS, \$14,600 of the CEGP funds have been expended to acquire a new vehicle for the Community Improvement Division.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Lodi hereby approves the purchase of mobile computing equipment using Code Enforcement Grant Program funds; and

BE IT FURTHER RESOLVED, that funds in the amount of \$36,695.50 be appropriated from Account 1211003, which will then be reimbursed from the CEGP funds that the State has allocated for this purpose.

Dated: November 16, 2005

=====

I hereby certify that Resolution No. 2005-_____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held November 16, 2005, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

SUSAN J. BLACKSTON
City Clerk

2005-_____



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Receive for Informational Purposes Contract Change Order No. 1 –
Lodi Avenue Overlay (Lower Sacramento Road to Ham Lane)/Pacific Avenue
Extension (Walnut Street to Lodi Avenue) (\$41,742)

MEETING DATE: November 16, 2005

PREPARED BY: Public Works Director

RECOMMENDED ACTION: This item is for information only. No action is required.

BACKGROUND INFORMATION: This information is being given to the City Council in accordance with the Contract Change Order policy approved by Resolution 85-173. One of the requirements of this policy is that we inform the Council of all change orders where the total change orders exceed \$25,000.

This attached contract change order, approved by the City Manager, was in the amount of \$41,742, which is 5.7% of the contract. The work includes revisions to the traffic signal at Lodi Avenue and Mills Avenue, an increase in the pavement reinforcing fabric quantity, and compensation for assisting City crews in repairing an unmarked water main at Lodi Avenue and Allen Drive. At the signal, new left turn phases (arrows) were installed for the eastbound and westbound approaches to reduce left-versus-through collisions. This contract change order also included a modification to an existing fence on Pacific Avenue, removal of thermoplastic crosswalks, and a change in the crosswalk design at the intersection of Lodi Avenue and Virginia Avenue.

The time of completion was extended by eight working days as part of this change order.

FISCAL IMPACT: Not applicable.

FUNDING:

Contract Amount:	\$771,727
Budgeted:	2003-2005 fiscal year
Budgeted Fund:	Measure K Maintenance (\$546,727)
	Wastewater Fund (\$105,000)
	Safe Routes to School Grant (\$108,000)
	Lodi Unified School District (\$12,000)

James R. Krueger, Finance Director

Richard C. Prima, Jr.
Public Works Director

Prepared by Wesley Fujitani, Senior Civil Engineer
Attachment
RCP/WKF/pmf

APPROVED: _____
Blair King, City Manager

**CITY OF LODI
PUBLIC WORKS DEPARTMENT**

CONTRACT CHANGE ORDER NO. 1

Sheet 1 of 2

Date: September 19, 2005

Account No. See Distribution below

PROJECT: Lodi Avenue Overlay (Lower Sacramento Road to Ham Lane)

CONTRACTOR: Granite Construction

You are directed to make the following changes or do the following work not included in the Plans and Specifications on this contract.

Description of work to be done, estimate of quantities, and prices to be paid. Specify whether additional work is at contract price, agreed price, or force account. Unless otherwise stated, rates for rental of equipment cover only such time as equipment is actually used and no allowance will be made for idle time.

- | | | |
|--|-------------------|-------------|
| 1. Assist in repair and relocation of unmarked watermain damaged at Lodi Avenue and Allen Drive.
Acct: 325005 | Agreed Upon Price | \$ 4,682.00 |
| 2. Modify existing fence at Walnut/Pacific intersection
Acct: 335005 | Agreed Upon Price | \$ 658.00 |
| 3. Remove thermoplastic crosswalks at Lower Sacramento Rd/Lodi Ave. and Mills Ave/Lodi Ave
Acct: 325005 | Agreed Upon Price | \$ 1,559.00 |
| 4. Modify traffic signal arms at Lodi/Mills
Acct: 325005 | Agreed Upon Price | \$16,732.00 |
| 5. Furnish and Install additional paving fabric
Acct: 325005 | Agreed Upon Price | \$17,666.00 |
| 6. Additional cost to install ladder crosswalk at Lodi/Virginia
Acct: 325005 | Agreed Upon Price | \$ 445.00 |

Account Distribution

Acct: 325005: \$41,084.00

Acct: 335005: \$ 658.00

**PERCENT OF
CONTRACT**

Original Contract Price	\$729,985.00	
Total Cost of This Change Order NOT TO EXCEED	\$ 41,742.00	5.7%
Previous Change Orders	\$ 0.00	
Total Cost of All Change Orders to Date	\$ 41,742.00	5.7%
Contract Price, Including All Change Orders, Will Be:	\$771,727.00	

Time of completion will be adjusted as follows: Add eight working days

CITY OF LODI
PUBLIC WORKS DEPARTMENT

CONTRACT CHANGE ORDER NO. 1

Sheet 2 of 2
Date: September 19, 2005

PROJECT: Lodi Avenue Overlay (Lower Sacramento Road to Ham Lane)

CONTRACTOR: Granite Construction

Submitted By Wes Fyfe Date 9-29-05
Approval Recommended Wally Spence Date 10-18-05
Approved, Public Works Director Richard Date 10-24-05
Approved, City Manager (Per Public Works Policies and Procedures, Administration 4.1)
Frank Grande Jr. Date 10/24/05

The undersigned contractor, having carefully considered the change proposed, agrees, if this proposal is approved, to provide all equipment, furnish all materials, except as otherwise noted above, perform all services necessary for the work above specified, and accept as full payment the prices shown above.

ACCEPTED: Date 10/6/05

Contractor Granite Construction

By Frank Grande Jr.
FRANK GRANDE JR.

Title Estimator/Project Manager

If the contractor does not sign acceptance of this order, the contractor should refer to Section 4-1.03A of the Standard Specifications regarding filing a written protest within the specified time.



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Accept Improvements Under Contract for Lighted Crosswalk System Project
Lockeford Street at Calaveras Street

MEETING DATE: November 16, 2005

PREPARED BY: Public Works Director

RECOMMENDED ACTION: That the City Council accept the improvements under the "Lighted Crosswalk System Project, Lockeford Street at Calaveras Street" contract.

BACKGROUND INFORMATION: The project was awarded to Collins Electric, of Stockton, on January 5, 2005, in the amount of \$41,382. The contract has been completed in substantial conformance with the plans and specifications approved by the City Council.

The final contract price was \$42,903. The difference between the contract amount and the final contract price is mainly due to an upgrade to the controller. This upgrade gives the City an added option by including audible signal capabilities as a possible future component of this lighted crosswalk system. This controller was not delivered until August and caused a delay in the acceptance of the project.

Following acceptance by the City Council, the City Engineer will file a Notice of Completion with the County Recorder's office.

FISCAL IMPACT: There will be a slight increase in maintenance costs associated with this lighted crosswalk system.

FUNDING AVAILABLE:	Budgeted Fund:	Suggested Route to School Program	\$37,800
		Transportation Development Act	\$5,103
	Contract Amount:	\$42,903	

James R. Krueger, Finance Director

Richard C. Prima, Jr.
Public Works Director

Prepared by Wesley Fujitani, Senior Civil Engineer
RCP/WKF/pmf
cc: Joel Harris, Purchasing Officer
Senior Traffic Engineer

APPROVED: _____
Blair King, City Manager



CITY OF LODI

COUNCIL COMMUNICATION

AGENDA TITLE: Adopt resolution accepting improvements under contract for Streetlight Completion Project – Phase IV (EUD)

MEETING DATE: November 16, 2005

PREPARED BY: Interim Electric Utility Director

RECOMMENDED ACTION: That the City Council adopt a resolution accepting the improvements under the Streetlight Completion Project – Phase IV contract, and direct the Electric Utility Director to file a notice of completion with the County Recorder's Office.

BACKGROUND INFORMATION: The contract was awarded to Golden State Utility Company, Turlock, CA on July 7, 2004, in the amount of \$746,528.10. The final contract price was \$738,755.56.

The contract has been completed in substantial conformance with the plans and specifications approved by the City Council. The project installed a total of 274 streetlights (109 steel and 165 concrete) on streets in the area within Washington Street, Central Avenue, Garfield Street and streets within Holly, Lockeford, Mills Avenue and Ham Lane.

The contract completion date was March 24, 2005, with the actual completion date being April 22, 2005. The contract completion date was extended by 21 days due to delays, not caused by the contractor. This extension in workdays did not change the contract price. During construction the contractor damaged a water main and storm drain, both have been repaired, the contractor was billed and the City received payment on October 20, 2005 for all damages.

FISCAL IMPACT: There will be an increase in energy and streetlight maintenance costs. The additional estimated annual cost for 181 new streetlights is \$16,575. (Note: 93 streetlights are replacements with no net fiscal change).

FUNDING: Business Unit 161672, Streetlight Completion Project 04-05 Financial Plan and Budget, page E-44

James R. Krueger, Finance Director

David Dockham
Interim Electric Utility Director

Prepared By: Al Smatsky, Sr. Electrical Estimator
DD/AS/lst
cc: City Attorney Public Works Director

APPROVED: _____
Blair King, City Manager

RESOLUTION NO. 2005-_____

A RESOLUTION OF THE LODI CITY COUNCIL ACCEPTING
IMPROVEMENTS UNDER THE CONTRACT FOR THE STREETLIGHT
COMPLETION PROJECT – PHASE IV, AND AUTHORIZING AND
DIRECTING THE ELECTRIC UTILITY DIRECTOR TO FILE A NOTICE
OF COMPLETION WITH THE COUNTY RECORDER

=====

WHEREAS, the contract for the Streetlight Completion Project – Phase IV was awarded to Golden State Utility Company, of Turlock, California, on July 7, 2004, in the amount of \$746,528.10; and

WHEREAS, the final contract price was \$738,755.56 resulting in the project coming in under the bid amount; and

WHEREAS, the project installed 274 streetlights (109 steel and 165 concrete) on streets in the area within Washington Street, Central Avenue, Garfield Street and streets within Holly, Lockeford, Mills Avenue and Ham Lane; and

WHEREAS, the contract has been completed in substantial conformance with the plans and specifications approved by the City Council.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Lodi does hereby accept the improvements under the Streetlight Completion Project – Phase IV contract; and

BE IT FURTHER RESOLVED that the Electric Utility Director is hereby authorized and directed to file a Notice of Completion with the County Recorder's office.

Dated: November 16, 2005

=====

I hereby certify that Resolution No. 2005-_____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held November 16, 2005, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

SUSAN J. BLACKSTON
City Clerk

2005-_____



CITY OF LODI

COUNCIL COMMUNICATION

AGENDA TITLE: Adopt Resolution Accepting Improvements in Woodhaven Park, Unit No. 3, Tract 3187

MEETING DATE: November 16, 2005

PREPARED BY: Public Works Director

RECOMMENDED ACTION: That the City Council adopt a resolution accepting the development improvements for Woodhaven Park, Unit No. 3, Tract No. 3187.

BACKGROUND INFORMATION: Improvements at Woodhaven Park, Unit No. 3, Tract No. 3187, have been completed in substantial conformance with the requirements of the Improvement Agreement between the City of Lodi and Fletcher Organization, Inc., as approved by the City Council on August 20, 2003, and as shown on Drawings No. 002D008 through 002D013, and 002D141. The subdivision improvements include the installation of an on-site public water main and street frontage improvements in Lilac Street along the subdivision frontage, as well as the adjacent parcels to the south.

No public streets were dedicated on the final map for this development.

FISCAL IMPACT: There will be a slight increase in long-term maintenance costs for the public utilities and street improvements that were installed with this development.

FUNDING: Not applicable.

Richard C. Prima, Jr.
Public Works Director

Prepared by Wesley Fujitani, Senior Civil Engineer

RCP/WKF/pmf

cc: City Attorney
Senior Civil Engineer - Development Services
Associate Traffic Engineer
Street Superintendent (w/attachment)
Engineering Technician Supervisor
Chief Building Inspector

APPROVED: _____
Blair King, City Manager

RESOLUTION NO. 2005-_____

A RESOLUTION OF THE LODI CITY COUNCIL
ACCEPTING THE DEVELOPMENT IMPROVEMENTS
INCLUDED IN THE IMPROVEMENT AGREEMENT FOR
WOODHAVEN PARK, UNIT NO. 3, TRACT 3187

=====

The City Council of the City of Lodi finds:

1. That all requirements of the Improvement Agreement between the City of Lodi and Fletcher Organization, Inc., for the improvements in Woodhaven Park, Unit No. 3, Tract 3187, have been substantially complied with. The improvements are shown on Drawings No. 002D008 through 002D013, and 002D141, on file in the Public Works Department and as specifically set forth in the plans and specifications approved by the City Council on August 20, 2003.
2. No public streets were dedicated on the final map for this development.

Dated: November 16, 2005

=====

I hereby certify that Resolution No. 2005-_____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held November 16, 2005, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

SUSAN J. BLACKSTON
City Clerk



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Adopt Resolution Accepting \$100,000 from San Joaquin County via the State of California's Supplemental Law Enforcement Services Fund (SLESF)

MEETING DATE: November 16, 2005

PREPARED BY: Jerry J. Adams, Chief of Police

RECOMMENDED ACTION: That the City Council adopt a resolution accepting \$100,000 from San Joaquin County via the State of California's Supplemental Law Enforcement Services Fund (SLESF).

BACKGROUND INFORMATION: For the past nine (9) years, the City of Lodi Police Department has received funds from San Joaquin County that were given to them via the State of California's Supplemental Law Enforcement Services Fund (SLESF). SLESF is a formulary grant based on generalized population figures determined by the State; this will be our 10th year for receiving these funds. The Police department uses these funds to support front-line law enforcement needs and specialized equipment purchases that are not covered in the Police Department's FY 05-06 Operating Budget.

The Police Department plans on continuing the use of these funds for the purchase of safety equipment and technology equipment. We purchase ongoing updates and enhancements to our Data 911 software and hard operating systems for Records Management and Computer Aided Dispatch. These funds have an expenditure date of two years after the date of generation by the State of California (June 30, 2007).

FISCAL IMPACT: Total grant of \$100,000 for front-line law enforcement needs. No matching funds are required.

FUNDING AVAILABLE: N/A

Jerry J. Adams
Chief of Police

JJA:sm
cc: City Attorney

APPROVED: _____
Blair King, City Manager

RESOLUTION NO. 2005-_____

A RESOLUTION OF THE LODI CITY COUNCIL
ACCEPTING FUNDS THROUGH SAN JOAQUIN
COUNTY FROM THE STATE OF CALIFORNIA
SUPPLEMENTAL LAW ENFORCEMENT SERVICES
FUND (\$100,000)

=====

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby accept funds in the approximate amount of \$100,000 through San Joaquin County from the State of California Supplemental Law Enforcement Services Fund (SLESF).

Dated: November 16, 2005

=====

I hereby certify that Resolution No. 2005-_____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held November 16, 2005, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

SUSAN J. BLACKSTON
City Clerk

2005-_____



TM

CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Adopt Resolution Authorizing City Manager to Approve Service Agreement with the San Joaquin Partnership for Economic Development Attraction and Retention Support (\$27,000) (CM)

MEETING DATE: November 16, 2005

PREPARED BY: Management Analyst, City Manager's Office

RECOMMENDED ACTION: Adopt resolution authorizing City Manager to approve service agreement with the San Joaquin Partnership for economic development attraction and retention support(\$27,000).

BACKGROUND INFORMATION: The City of Lodi has contracted with the San Joaquin Partnership, Inc. for Economic Development support since 1991. This agreement extends the contract for a fifteenth year, ensuring continued support from the Partnership in local Economic Development attraction and retention.

FISCAL IMPACT: None, as this amount was included in the 05-06 fiscal year budget.

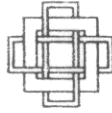
FUNDING AVAILABLE: Economic Development, professional services, 100431.7323

James R. Krueger, Finance Director

Janet L. Hamilton
Management Analyst

Attachments

APPROVED: _____
Blair King, City Manager



NOV 11 2005
11:00 AM
11:00 AM

Board of Directors:

C Chairman - **Robert K. Wheeler**
General Mills

Vice Chairman - **Robert Kavanaugh**
Guaranty Bank

Secretary/Treasurer - **Susan Dell'Osso**
The Cambay Group

Richard Aschieris
Port of Stockton

Edward Barkett
Atlas Properties, Inc.

Dan Bilbrey
City of Tracy

Edward Chavez
City of Stockton

Roger Coover
The Record

Donald DeRosa
University of the Pacific

Douglass Eberhardt
Bank of Stockton

Lisa Finer
Wells Fargo Bank

John Harris
City of Manteca

Kevin Huber
The Grupe Company

Dennis Hurst
Bank of the West

Bob Johnson
City of Lodi

Robert Matthews
Tracy Press, Inc.

Ole Mettler
Farmers & Merchants Bank

Victor Mow
SJC Board of Supervisors

Gloryanna Rhodes
City of Lathrop

José Rivera
Kaiser Permanente

Luis Sanchez
Washington Mutual Bank

Jerry Sperry
A. G. Spanos Companies

Doug Urbick
A. Teichert & Son, Inc.

Martin Van Houten
City of Escalon

Douglass Wilhoit
Stockton Chamber of Commerce

Chuck Winn
City of Ripon

SAN JOAQUIN PARTNERSHIP

A Private Non-Profit Economic Development Corporation Serving San Joaquin County

November 1, 2005

Blair King
City of Lodi
Call Box 3006
Lodi, CA 95241

RE: Acknowledgment of Investment

Dear Blair:

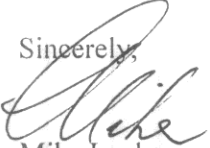
This letter is to thank you and confirm the receipt of a check from the City of Lodi for \$27,000 on October 21, 2005 for its **2005-2006 fiscal year** commitment to the San Joaquin Partnership. Enclosed are two service agreements. Please sign them and return one for our files.

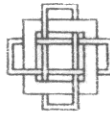
We would like to express our appreciation for the continued support by the City of Lodi. The Partnership was selected as one of the 2004 "Top Ten Economic Development Groups" in the nation by *Site Selection* magazine. Our cumulative impacts during the past thirteen years are profound: more than 40,000 jobs generated, nearly \$5 billion in industry output and \$1.5 billion in labor income. The Partnership can justly claim it is one of the most successful economic development organizations in the state. This is a direct result of investment from the County of San Joaquin and its seven cities - *the City of Lodi's investment* - which in conjunction with the private sector, makeup the financial base to further the County's economic development.

Continued support such as that from the City of Lodi is critical - financially and philosophically - to continue this pattern of success. We must continually reach out to prospective companies seeking new locations and inform them of what we have to offer in terms of transportation, lower overall operating costs, and workforce availability. **This year we are producing a strategic plan to take a new look at how to address the next decade and how we focus on knowledge-based job development. This process is in the final phase.**

Our most major recent announcements: BMW, which has just completed a 250,000 square foot parts distribution center in Stockton, and Millard Refrigerated Services, a national warehouse, distribution and processing firm completing a new facility in Manteca

If you have any questions, do not hesitate to call me at (209) 956-3380. Again, we thank the City of Lodi for its leadership and continued support.

Sincerely,

Mike Locke
President & CEO



SAN JOAQUIN PARTNERSHIP

A Private Non-Profit Economic Development Corporation Serving San Joaquin County

SERVICE AGREEMENT

Understanding of Renewal

A Service Agreement between the City of Lodi, a municipal corporation existing under the laws of the State of California ("City"), and the San Joaquin Partnership, Inc., a corporation organized under the nonprofit laws of the State of California ("Contractor") (Collectively "Parties") was entered into on July 1, 1991.


This letter verifies that the Parties agree to extend the Service Agreement for a fifteenth year (Fiscal Year 2005-2006) under the same terms and conditions agreed to in the contract.

Date: _____

"City"

By: _____
City Manager

"Contractor"

By: 
Michael E. Locke
President & CEO

RESOLUTION NO. 2005-_____

A RESOLUTION OF THE LODI CITY
COUNCIL AUTHORIZING THE CITY
MANAGER TO APPROVE SERVICE
AGREEMENT WITH THE SAN JOAQUIN
PARTNERSHIP

=====

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Lodi hereby approves Service Agreement with the San Joaquin Partnership for economic development support; and

BE IT FURTHER RESOLVED, that the City Council further authorizes the City Manager to execute the Service Agreement on behalf of the City of Lodi.

Dated: November 16, 2005

=====

I hereby certify that Resolution No. 2005-_____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held November 16, 2005, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

SUSAN J. BLACKSTON
City Clerk

2005-_____



CITY OF LODI COUNCIL COMMUNICATION

TM

AGENDA TITLE: Adopt Resolution Supporting the Establishment of the San Joaquin Valley Veterans Administration Regional Medical Clinic at French Camp (CM)

MEETING DATE: November 16, 2005

PREPARED BY: Management Analyst, City Manager's Office

RECOMMENDED ACTION: Adopt resolution supporting the establishment of the San Joaquin Valley Veterans Administration regional Medical Clinic (VAMC) at French Camp.

BACKGROUND INFORMATION: The Lodi American Legion Post 22 has requested support for the San Joaquin County proposal to replace the VAMC at Livermore with a site at the San Joaquin General Hospital campus in French Camp. The local American Legion Post of almost 600 members feels that the centrally located French Camp area would best suit the needs of Lodi and County Veterans.

FISCAL IMPACT: None.

FUNDING AVAILABLE: N/A

Janet L. Hamilton
Management Analyst

cc: Martin Jones, Commander, Lodi American Legion Post #22

APPROVED: _____
Blair King, City Manager

RESOLUTION NO. 2005-_____

A RESOLUTION OF THE LODI CITY COUNCIL
SUPPORTING ESTABLISHMENT OF THE SAN JOAQUIN
VALLEY VETERANS ADMINISTRATION REGIONAL
MEDICAL CLINIC AT FRENCH CAMP

=====

WHEREAS, the VA Skilled Nursing Home and Outpatient Health Care facility in Livermore has been targeted by the VA Capital Asset Realignment for Enhanced Services to be relocated to the San Joaquin General Hospital campus in Stockton, California; and

WHEREAS, the County of San Joaquin has submitted a proposal to the Department of Veterans Affairs for the project; and

WHEREAS, San Joaquin County is home to over 44,000 veterans; and

WHEREAS, the Lodi American Legion Post 22 and its 600 members have requested support for the relocation.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Lodi hereby supports the establishment of the San Joaquin Valley Veterans Administration Regional Medical Clinic at French Camp.

Dated: November 16, 2005

=====

I hereby certify that Resolution No. 2005-_____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held November 16, 2005, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

SUSAN J. BLACKSTON
City Clerk

2005-_____

Comments by the public on non-agenda items

THE TIME ALLOWED PER NON-AGENDA ITEM FOR COMMENTS MADE BY THE PUBLIC IS LIMITED TO FIVE MINUTES.

The City Council cannot deliberate or take any action on a non-agenda item unless there is factual evidence presented to the City Council indicating that the subject brought up by the public does fall into one of the exceptions under Government Code Section 54954.2 in that (a) there is an emergency situation, or (b) the need to take action on the item arose subsequent to the agenda's being posted.

Unless the City Council is presented with this factual evidence, the City Council will refer the matter for review and placement on a future City Council agenda.

Comments by the City Council Members on non-agenda items



CITY OF LODI COUNCIL COMMUNICATION

TM

AGENDA TITLE: Public Hearing to consider an appeal of the Planning Commission's decision to deny the request of Kirk Smith on behalf of Velvet Grill for a Use Permit (U-05-011) to allow a Type 41 Alcoholic Beverage License for on sale beer and wine with a restaurant at 1421 South Ham Lane, Suite A

MEETING DATE: November 16, 2005

PREPARED BY: Associate Planner, Mark Meissner

RECOMMENDED ACTION: That the City Council obtain sufficient information and testimony to determine whether or not the project would achieve and maintain a high quality development and that the public's welfare would be served. Absent such information and testimony the City Council is recommended to uphold the Planning Commission's denial of the request of Kirk Smith on behalf of Velvet Grill for a Use Permit (U-05-011) to allow a Type 41 Alcoholic Beverage License for on-sale beer and wine with a restaurant at 1421 South Ham Lane, Suite A, as found and determined by the Planning Commission in Resolution P.C. 05-29.

BACKGROUND INFORMATION: The request was first introduced to the Planning Commission at their public hearing of August 10, 2005. The request was continued due to a letter from a concerned neighbor alleging that there has been a history of noise and poor management at the Velvet Grill, and the applicant was not present to answer the Commission's questions. The Planning Commission directed Staff to obtain a history of Incident Reports from the Police Department to determine the extent of the problem, and to notify the applicant that a representative must be present to answer the Commission's questions.

The request was brought back to the Planning Commission at their public hearing of September 14, 2005 where staff reported that the records obtained from the Police Department did not represent a serious problem at the Velvet Grill and recommended approval of the request. The Assistant Manager of the Velvet Grill was present at the hearing to answer questions; however, the Planning Commission felt that he was not prepared to answer questions but to simply make statements. The Planning Commission found that their concerns were not addressed, nor important to the applicant, and for these reasons they could not approve the request.

FUNDING: None

Randy Hatch
Community Development Director

MM/RH/kc

Attachments: Letters, Planning Commission Staff Reports,
Resolution & Minutes of 8/10 & 9/14 Public Hearings.

APPROVED: _____
Blair King, City Manager



MEMORANDUM, City of Lodi, Community Development Department

To: Planning Commission

From: Community Development Department

Date: August 10, 2005

Subject: The request of Kirk Smith on behalf of the Velvet Grill and Creamery Restaurant for a Use Permit to allow a Type 41 Alcoholic Beverage License for On Sale Beer and Wine with Eating Establishment at 1421 S. Ham Lane, Suite A.

RECOMMENDATION

Staff recommends that the Planning Commission approve the request of the Velvet Grill and Creamery Restaurant for a Use Permit to allow a Type 41 Alcoholic Beverage Control (ABC) License for On Sale Beer and Wine with Eating Establishment at a restaurant at 1421 S. Ham Lane, Suite A, subject to conditions on the attached resolution.

SUMMARY

The proposed project is a new Alcohol Beverage Control Type 41 license for the Velvet Grill and Creamery Restaurant that is currently located on the west side of Ham Lane, south of Kettleman Lane. The property is zoned PD-15, Planned Development District 15. The PD-15 agreement established that the property is subject to the performance standards as described in the City's C-S, Commercial Shopping District. The Type 41 license authorizes the sale of beer and wine for consumption on the licensed premises in conjunction with a boni-fide eating establishment. The Velvet Grill and Creamery will sell beer and wine during the same hours as the restaurant is open.

ANALYSIS

The Velvet Grill and Creamery has a full lunch and diner menu including sandwiches, pasta, traditional dinners, and deserts and would like to sell beer and wine in conjunction with their food sales. The restaurant is open from 8:00 am to 10:00 pm, seven days a week. The total square footage of the restaurant is 2,200 square feet and the restaurant has approximately 20 employees working various shifts. Beer and wine will only be served during hours the restaurant is serving food.

The Lodi Municipal Code requires a Use Permit for the sale of alcohol. The provision covering alcohol sales is found in Section 17.72.040 of the Zoning Code and applies to off-sale as well as on-sale alcohol outlets. Census Tract 43.06 covers the area south of West Kettleman Lane, west of the railroad tracks, north of West Harney, and east of Zinfandel Drive and Beckman Park. Because this area has a large concentration of neighborhood and community commercial uses,

there are eight existing ABC licenses in the census tract for on-site sale at other eating establishments. The ABC currently allows eight ABC licenses for on-sale and seven licenses for off-sale within the Census tract. The nearest licensed on-sale restaurants are Shi Ra Soni 2, Yen Ching, and Casa Mexicana. Within this census tract, there are three stores with off-sale licenses, as listed below:

On-sale	Business	ABC License Type
1110 W Kettleman	Yen Ching	On-sale Beer and Wine for a Bona-fide Public Eating Place
1110 W Kettleman	Casa Mexicana	On-sale Beer and Wine for a Bona-fide Public Eating Place
1413 S Church	Mar Y Tierra Restaurant	On-sale Beer and Wine for a Bona-fide Public Eating Place
2525 S Hutchins	Tokay Pizzeria	On-sale Beer and Wine for a Bona-fide Public Eating Place
1900 Hutchins	Lodi Athletic Club	On Sale Beer
1420 W Kettleman	Shi RA Soni 2	On-sale Beer and Wine for a Bona-fide Public Eating Place
226 W Kettleman	Happy Burro Mexican Rest.	On-sale Beer and Wine for a Bona-fide Public Eating Place
1040 W Kettleman	Cheezer Gourmet Pizza	On-sale Beer and Wine for a Bona-fide Public Eating Place

Off-sale	Business	ABC License Type
1000 W Kettleman	Longs Drugs	Off-Sale General
2525 S Hutchins	Tokay Market Food & Liquor	Off-Sale General
401 W Kettleman	USA Mini Mart	Off-Sale Beer and Wine

Because the Velvet Grill and Creamery is a restaurant that would like to sell beer and wine with food, as opposed to a bar that serves food, we do not anticipate that the alcohol sales portion of the business will create any problems. This operation would be similar to other restaurants (Shi Ra Soni 2, Yen Ching and Casa Mexicana) with on-sale ABC licenses and there has not been any particular problem with these establishments.

Since the Census Tract 43.06 incorporates eight other restaurants with on-sale licenses, out of an allowable eight on-sale license for this Census tract, approval of this Use Permit would require a determination that public convenience or necessity would be served by the issuance of this permit.

Respectfully Submitted,

Reviewed & Concur,

Jason Burke
Planner

Jerry Herzick
Building Official

JH/jb

Attachments

CITY OF LODI

PLANNING COMMISSION

Staff Report

MEETING DATE: August 10, 2005

APPLICATION NO: Use Permit U-05-11

REQUEST: The request of Kirk Smith on behalf of the Velvet Grill and Creamery Restaurant for a Use Permit to allow a Type 41 Alcoholic Beverage License for On Sale Beer and Wine with Eating Establishment at 1421 S. Ham Lane, Suite A.

LOCATION: 1421 S. Ham Lane, Suite A, Lodi.
APN 060-020-04

APPLICANT: Velvet Restaurant Inc.
25 Sierra Vista
Santa Barbara, CA

PROPERTY OWNER: Chris Gianulias
3220 Province Towne Ct.
Modesto, CA 95355

Project Description:

The Velvet Grill and Creamery Restaurant has a full breakfast, lunch and diner menu including sandwiches, pasta, traditional dinners, and deserts and would like to sell beer and wine in conjunction with their food sales. The restaurant is open from 8:00 am to 10:00 pm, seven days a week. The total square footage of the restaurant is 2,200 square feet and the restaurant has approximately 20 employees working various shifts. Beer and wine will only be served during hours the restaurant is serving food. Velvet Restaurant, Inc. must secure a Use Permit that will allow them to obtain a Type 41 On Sale Beer and Wine with Eating Establishment license from the Alcohol Beverage Control Dept.

General Plan Designation NCC, Neighborhood Community Commercial
Zoning Designation. C-S, Commercial Shopping Center
Property Size. 24,293 square feet, restaurant is 2,200 square feet.

Adjacent Zoning and Land Use:

North: P-D, Planned Development. Use is commercial shopping center and Kettleman Lane.

South: P-D, Planned Development. Single Family Residential neighborhood.

East: P-D. Use is commercial shopping center. To the east across Ham Lane is the Beckman Ranch Shopping Center.

West: P-D. Uses include Single Family Residential neighborhoods and commercial shopping center.

Neighborhood Characteristics:

The restaurant site is in a small shopping center, located at the southwest corner of West Kettleman Lane and South Ham Lane. Single-family residential neighborhoods are located to the south of the restaurant. Commercial uses are located to the north, east and west. Kettleman Lane, which is located north of the project property, is a major thorough fare that has a mixture of

commercial and office types of uses along this stretch of roadway. The other three corners of this intersection have some type of commercial or institutional use. The subdivisions to the south are separated from the shopping center by a block wall. This wall also runs the length of Ham lane south of the subject site. Within the shopping center, the Velvet Grill shares the building with two small retail businesses. There is also a freestanding auto parts store directly to the north of the restaurant.

ENVIRONMENTAL ASSESSMENTS:

The project was found to be Categorically exempt according to the California Environmental Quality Act, Article 19 §1532, Class 21 (a) (2). The project is classified as an “Enforcement action by regulatory agencies” because it is the “adoption of an administrative decision or order enforcing ...the lease, permit, license, certificate, or entitlement for use or enforcing the general rule, standard, or objective.” No significant impacts are anticipated and no mitigation measures have been required.

PUBLIC HEARING NOTICE:

Legal Notice for the Use Permit was published on July 30, 2005. Twenty-six public hearing notices were sent to all property owners of record within a 300-foot radius of the subject property.

RECOMMENDATION:

Staff recommends that the Planning Commission approve the request of Velvet Restaurant, Inc. for a Use Permit to allow a Type 41 Alcoholic Beverage License for On Sale Beer and Wine with eating establishment at 1421 South Ham Lane, subject to the conditions on the attached resolution.

ALTERNATIVE PLANNING COMMISSION ACTIONS:

- Approve the Use Permit with Alternate Conditions
- Deny the Use Permit
- Continue the Request

ATTACHMENTS:

1. Vicinity Map
2. Sample Menu
3. Draft Resolution

**LODI PLANNING COMMISSION
REGULAR COMMISSION MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, AUGUST 10, 2005**

1. CALL TO ORDER / ROLL CALL

The Regular Planning Commission meeting of August 10, 2005, was called to order by Chair Aguirre at 7:00 p.m.

Present: Planning Commissioners –Haugan, Heinitz, Kuehne, Moran, White, and Chair Aguirre

Absent: Planning Commissioners – Cummins

Also Present: Community Development Co-Manager Joseph Wood, Senior Planner David Morimoto, Deputy City Attorney Janice Magdich, and Administrative Secretary Kari Chadwick

2. MINUTES

- a) "February 9, 2005", "February 23, 2005", & "July 13, 2005"

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Haugan, Moran second, approved the minutes of February 9, 2005, February 23, 2005, and July 13, 2005 as written.

3. PUBLIC HEARINGS

- a) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Chair Aguirre called for the public hearing to consider the request of Kirk Smith on behalf of the Velvet Grill Restaurant for a Use Permit to allow a Type 41 Alcohol Beverage License for on sale beer and wine with eating establishment at 1421 South Ham Lane, Lodi.

David Morimoto, Senior Planner, reported that the Velvet Grill Restaurant is located near the southwest corner of Ham Lane and Kettleman Lane. The Restaurant recently changed ownership. The new owner would like to sell beer and wine with the regular menu. The Alcohol Beverage Control Board Census Tract for this area which extends from the Woodbridge Irrigation Canal on the west, Kettleman Lane on the North, the Railroad Tracks on the East, and Harney Lane on the South allows only eight on site liquor sells licenses in this area and there are currently eight on file. There are two establishments directly surrounding this location that have a license to sell alcohol and both are restaurants. Staff is recommending approval of this application. Today staff received a letter from a property owner whose home is adjacent to the property where the restaurant is located. The main objection is about the noise from the employees after hours.

In response to Commissioner Heinitz, Mr. Morimoto stated that there are eight on sell beer & wine licenses in the census area.

Hearing Opened to the Public

- None

In response to Commissioner Heinitz, Mr. Morimoto stated that we did not hear anything back from the Police Department when the Transmittal went out. The letter arrived today so there wasn't enough time to get a response to it either.

In response to Chair Aguirre, Mr. Morimoto stated that they would be allowed to serve for the hours that they are open for business.

Public Portion of Hearing Closed

Commissioner Haugan and Commissioner Heinitz requested the postponement of the Public Hearing until there could be some response from the Police Department and notification to the owner.

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Haugan, Heinitz second, to continue the public hearing for the request of Kirk Smith on behalf of the Velvet Grill Restaurant for a Use Permit to allow a Type 41 Alcohol Beverage License for on sale beer and wine with eating establishment at 1421 South Ham Lane, Lodi. The motion carried by the following vote:

Ayes: Commissioners – Haugan, Heinitz, Kuehne, Moran, White, and Chair Aguirre

Noes: Commissioners –

Absent: Commissioners – Cummins

COMMENT / QUESTION FROM COMMISSIONER MORAN

In response to Commissioner Moran, Commissioner Heinitz stated that the Type 41 ABC License Census has been looked at in other areas like Downtown when trying to establish a restaurant corridor and on Cherokee Lane where there are a large concentration of restaurants.

- b) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Chair Aguirre called for the public hearing to consider the request of Jonathan Wetmore on behalf of Grands Amis Winery for a Use Permit to allow an Alcohol Beverage Control License Type 17 Beer and Wine Wholesaler and a Type 20 Off Sale Beer and Wine at 115 North School Street, Lodi.

Mr. Morimoto reported that the Grands Amis Winery came before the Planning Commission through a different location. They got a Use Permit to move their operation from the county to within the City limits out on East Turner Road. They currently have a business office on School Street just north of the Theater and would like to now move the entire operation to that location. Grands Amis Winery is going to concentrate on doing sells over the phone and internet, they would be storing some cases of wine, they would also be able to sell both wholesale and retail out of this location and would eventually like to open up for occasional wine tasting. They are asking for two different types of ABC licenses, one which allows for the selling of the wine over the phone and internet and the other which allows for the sell of wine on the retail end and the occasional wine tasting. They are keeping the office in suite 5 and take over an adjoining suite for the storage and wine tasting. There are a large number of liquor licenses already in this census area. The ABC Board allows four of the Type 20 Licenses and there are twenty-six currently. There are no wholesale licenses in this area right now.

In response to Commissioner Heinitz, Mr. Morimoto stated that it would take two separate votes, one for each of the different types of licenses. Grands Amis could maintain a license at both locations if he chose to do so.

Hearing Opened to the Public

- Jonathan Wetmore, Grands Amis Winery, stated that they have withdrawn their ABC License application for the Turner Road location. They have decided to have someone else make the wine and hold it in bond for them. The School Street location has plenty of room with 400 square feet of office space and 400 square feet of storage/conference/wine tasting space that is ready to go. The office has it's own parking area, so parking shouldn't be an issue. There will be no need for large trucks to deliver or pickup because of the smaller scale of the business. The wine has to be kept in bond until they pull it out. Their current hours are 8:00 a.m. – 5:00 p.m.



MEMORANDUM, City of Lodi, Community Development Department

To: Planning Commission
From: Community Development Department
Date: September 14, 2005
Subject: The request of Kirk Smith on behalf of the Velvet Grill and Creamery Restaurant for a Use Permit to allow a Type 41 Alcoholic Beverage License for On Sale Beer and Wine with Eating Establishment at 1421 S. Ham Lane, Suite A.

RECOMMENDATION

Staff recommends that the Planning Commission approve the request of the Velvet Grill and Creamery Restaurant for a Use Permit to allow a Type 41 Alcoholic Beverage Control (ABC) License for On Sale Beer and Wine with Eating Establishment at a restaurant at 1421 S. Ham Lane, Suite A, subject to conditions on the attached resolution.

SUMMARY

Review of Lodi Police Department event reports for calls for service at the Velvet Grill and Creamery Restaurant has determined that there have been relatively minor incidents related to noise from the restaurant staff. The planning department does not feel that the Velvet Grill and Creamery Restaurant has been a problem in the past and that a liquor license will create a serious problem.

ANALYSIS

In response to a letter from a neighbor, Jon Miller, in opposition to the granting of a Use Permit for an ABC license, and a subsequent request by the Planning Commission, the Planning Department has requested reports for all calls for service from the police department to the Velvet Grill and Creamery Restaurant from 2000 to 2005. The Police Department provided reports for all calls for service at the restaurant location, including records of all noise complaints at the restaurant (summarized in the table below).

The majority of service calls at the restaurant involved incidents in the parking lot not associated with the restaurant, including traffic stops, suspicious behavior and harassment complaints. The majority of service calls associated with the restaurant involved leaving the doors open, fraud, and three incidents of loud noise late at night. There was one reported incident of employees skateboarding, one reported incident of partying in the back of the parking lot, and one case of loud pressure washing of the parking lot at 2:00 am. The Police Department records of calls for service at the restaurant from 2000 through 2005 do not reflect an ongoing problem with noise at the restaurant. None of the police records contained references to employees drinking. While the planning

Police calls for service summary (2000-2005)

Related to Restaurant

Date	Time	
02/06/2005	6:00 PM	Businesses front door left open, secured by employee
09/06/2004	12:00 PM	Open door to business, by owner for re-decorating
06/02/2004	2:30 AM	Disturbance: Loud noise from pressure washing of parking lot
05/17/2004	4:00 PM	Disoriented lost elderly female
05/13/2004	4:00 PM	Eat, no pay
10/28/2003	9:00 PM	Disturbance: partying in back lot (unclear if subjects were employees)
06/24/2003	4:30 AM	Suspicious vehicle in alley (delivery truck at business)
05/30/2003	1:00 PM	Check forgery
08/29/2002	4:00 PM	Lost money
07/17/2002	10:30 AM	Documents fraud
06/22/2002	11:30 PM	Loud employees skateboarding after work
04/03/2002	1:30 AM	Building check, employees inside
05/19/2001	9:30 AM	Found property
05/09/2001	2:00 PM	Stolen Wallet
01/21/2001	7:00 AM	Commercial burglary
09/17/2000	12:35 PM	Back door open
09/16/2000	9:30 AM	Commercial burglary
07/22/2000	12:30 PM	Disoriented lost elderly female
07/18/2002	9:00 AM	Suspicious incident: burnt matches inside front door

Not directly related to Restaurant

Date	Time	
05/27/2005	12:00 PM	Fight in parking lot
07/27/2005	10:45 PM	Bald man with tattoos circling area
02/10/2005	11:00 PM	Walking stop
11/19/2004	12:00 PM	Harassment by male trying to read palms for \$150
10/31/2004	4:00 PM	Juveniles skating and breaking bottles (not identified as employees)
08/24/2004	8:00 AM	Harassment by sister's ex-boyfriend
07/13/2004	1:00 AM	Suspicious vehicle traffic stop
07/02/2004	11:00 PM	2 vehicle accident
05/13/2004	7:00 PM	Traffic stop, DUI
03/10/2004	10:30 AM	Vehicle stop
03/05/2004	2:30 PM	Harassment
02/16/2005	6:00 PM	Walking stop
01/13/2004	12:30 PM	Vehicle accident
12/25/2005	10:30 AM	Suspicious vehicle: owners rearranging for sale
12/12/2003	8:00 AM	Abandoned vehicle
11/26/2003	2:30 PM	Disturbance, 4 juvenile males in a fight in parking lot

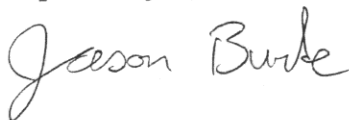
11/21/2003	10:30 PM	Suspicious males going through mailboxes
08/09/2003	9:30 AM	Unoccupied vehicle facing wrong direction
06/12/2003	1:30 AM	Vehicle stop
06/01/2003	9:30 AM	Truck loitering in lot, possibly occupied
03/18/2003	7:00 PM	Suspicious vehicle in back parking lot
12/20/2002	6:00 PM	Missing juvenile
08/13/2002	8:00 AM	Harassment
04/19/2002	7:30 PM	Vehicle stop
04/03/2002	6:00 PM	Suspicious vehicle in parking lot
01/01/2002	1:00 PM	Vehicle accident
04/07/2001	7:00 PM	Stolen vehicle
04/11/2000	9:00 PM	Suspicious juvenile carrying box

department realizes that the neighbors around the restaurant may have been disturbed by events not recorded in the police records, there is not a long history in the police records that reflect an ongoing problem with noise and disturbance associated with the restaurant.

The restaurant will not function as a bar and will be required to continue operation as a restaurant, in compliance with ABC license requirements for a Type 41 license. Because the Velvet Grill and Creamery is a restaurant that would like to sell beer and wine with food, as opposed to a bar that serves food, we do not anticipate that the alcohol sales portion of the business will create any problems.

Conditions of approval are intended to insure that applicant shall operate and abide by all conditions of the State of California Department of Alcoholic Beverage Control license Type 41 regarding the consumption of alcohol and that the applicant will insure that the granting of this Use Permit for an ABC liquor license will not cause or result in repeated activities which disturb surrounding neighbors.

Respectfully Submitted,



Jason Burke
Planner

Reviewed & Concur,

Jerry Herzick
Building Official

JH/jb

Attachments

CITY OF LODI

PLANNING COMMISSION

Staff Report

MEETING DATE: September 14, 2005

APPLICATION NO: Use Permit U-05-11

REQUEST: The request of Kirk Smith on behalf of the Velvet Grill and Creamery Restaurant for a Use Permit to allow a Type 41 Alcoholic Beverage License for On Sale Beer and Wine with Eating Establishment at 1421 S. Ham Lane, Suite A.

LOCATION: 1421 S. Ham Lane, Suite A, Lodi.
APN 060-020-04

APPLICANT: Velvet Restaurant Inc.
25 Sierra Vista
Santa Barbara, CA

PROPERTY OWNER: Chris Gianulias
3220 Province Towne Ct.
Modesto, CA 95355

Project Description:

The Velvet Grill and Creamery Restaurant has a full breakfast, lunch and diner menu including sandwiches, pasta, traditional dinners, and deserts and would like to sell beer and wine in conjunction with their food sales. The restaurant is open from 8:00 am to 10:00 pm, seven days a week. The total square footage of the restaurant is 2,200 square feet and the restaurant has approximately 20 employees working various shifts. Beer and wine will only be served during hours the restaurant is serving food. Velvet Restaurant, Inc. must secure a Use Permit that will allow them to obtain a Type 41 On Sale Beer and Wine with Eating Establishment license from the Alcohol Beverage Control Dept.

General Plan Designation NCC, Neighborhood Community Commercial
Zoning Designation. C-S, Commercial Shopping Center
Property Size. 24,293 square feet, restaurant is 2,200 square feet.

Adjacent Zoning and Land Use:

North: P-D, Planned Development. Use is commercial shopping center and Kettleman Lane.

South: P-D, Planned Development. Single Family Residential neighborhood.

East: P-D. Use is commercial shopping center. To the east across Ham Lane is the Beckman Ranch Shopping Center.

West: P-D. Uses include Single Family Residential neighborhoods and commercial shopping center.

Neighborhood Characteristics:

The restaurant site is in a small shopping center, located at the southwest corner of West Kettleman Lane and South Ham Lane. Single-family residential neighborhoods are located to the south of the restaurant. Commercial uses are located to the north, east and west. Kettleman Lane, which is located north of the project property, is a major thoroughfare that has a mixture of

commercial and office types of uses along this stretch of roadway. The other three corners of this intersection have some type of commercial or institutional use. The subdivisions to the south are separated from the shopping center by a block wall. This wall also runs the length of Ham lane south of the subject site. Within the shopping center, the Velvet Grill shares the building with two small retail businesses. There is also a freestanding auto parts store directly to the north of the restaurant.

ENVIRONMENTAL ASSESSMENTS:

The project was found to be Categorically exempt according to the California Environmental Quality Act, Article 19 §1532, Class 21 (a) (2). The project is classified as an “Enforcement action by regulatory agencies” because it is the “adoption of an administrative decision or order enforcing ...the lease, permit, license, certificate, or entitlement for use or enforcing the general rule, standard, or objective.” No significant impacts are anticipated and no mitigation measures have been required.

PUBLIC HEARING NOTICE:

Legal Notice for the Use Permit was published on July 30, 2005. Twenty-six public hearing notices were sent to all property owners of record within a 300-foot radius of the subject property.

RECOMMENDATION:

Review of Lodi Police Department event reports for calls for service at the Velvet Grill and Creamery Restaurant has determined that there have been relatively minor incidents related to noise from the restaurant staff. Staff recommends that the Planning Commission approve the request of Velvet Restaurant, Inc. for a Use Permit to allow a Type 41 Alcoholic Beverage License for On Sale Beer and Wine with eating establishment at 1421 South Ham Lane, subject to the conditions on the attached resolution.

ALTERNATIVE PLANNING COMMISSION ACTIONS:

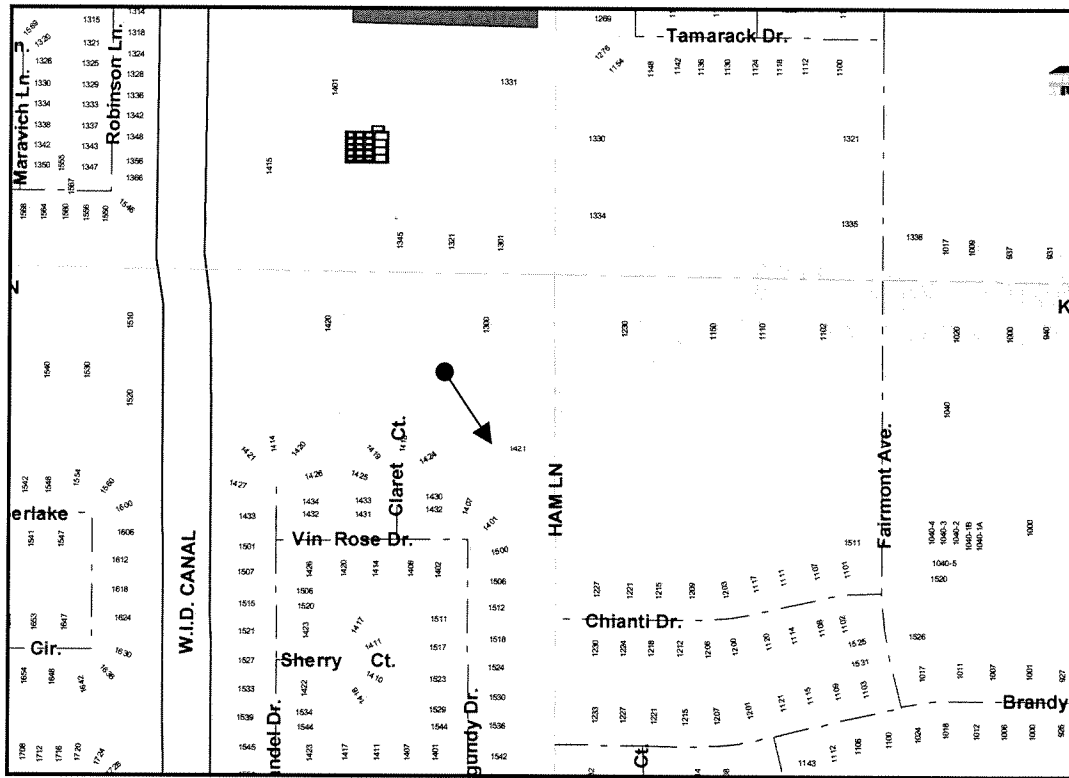
- Approve the Use Permit with Alternate Conditions
- Deny the Use Permit
- Continue the Request

ATTACHMENTS:

1. Vicinity Map
2. Sample Menu
3. Draft Resolution

VICINITY MAP

Velvet Grill Restaurant
1421 South Ham Lane
Lodi, CA 95241



DRAFT

RESOLUTION NO. P.C. 05-

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LODI
APPROVING THE REQUEST OF KIRK SMITH ON BEHALF OF THE VELVET
GRILL AND CREAMERY RESTAURANT FOR A USE PERMIT TO ALLOW A TYPE
41 ALCOHOLIC BEVERAGE LICENSE FOR ON SALE BEER AND WINE WITH A
RESTAURANT AT 1421 S. HAM LANE, SUITE A.**

WHEREAS, the Planning Commission of the City of Lodi has heretofore held a duly noticed public hearing, as required by law, on the requested Use Permit, in accordance with the Lodi Municipal Code, Section 17.72.070.

WHEREAS, the project proponent is Kirk Smith on behalf of the Velvet Grill and Creamery Restaurant; and

WHEREAS, all legal prerequisites to the adoption of this Resolution have occurred; and

WHEREAS, the property is zoned C-S, Commercial Shopping; and

WHEREAS, the property is located at 2745 West Kettleman Lane, Lodi, CA (APN 060-020-04) and is currently operating as a restaurant; and

WHEREAS, the requested use permit to allow the selling of beer and wine for on-site consumption within the restaurant is an enforcement action in accordance with the City of Lodi Zoning Ordinance; and

WHEREAS, Census Tract 43.06 in which the restaurant is located is currently operating with eight existing licenses of the eight allowable number of licenses allowing on premise consumption of alcoholic beverages; and

WHEREAS, the State Department of Alcoholic Beverage Control has training available that clearly communicates State law concerning the sale of alcoholic beverages; and

NOW, THEREFORE, BE IT FOUND, DETERMINED AND RESOLVED by the Planning Commission of the City of Lodi as follows.

1. The project is categorically exempt according to the California Environmental Quality Act, §15321, Class 21 (Enforcement Action by Regulatory Agency). The permit is being granted under adoption of an administrative decision or order enforcing the ABC license and enforcing Section 17.72.070 of the Zoning Ordinance and no significant impacts are anticipated and no mitigation measures have been required.
2. Use Permit Application No. U-05-011 is hereby approved, subject to the following conditions:
 - A. The applicant shall operate and abide under all conditions of the State of California Department of Alcoholic Beverage Control license Type 41.
 - B. The Type 41 license shall be limited to the on-site sale and consumption of beer and wine during the hours that the restaurant is open for dining and that no off-sale of alcohol.

- C. Prior to the issuance of a Type 41 license, the applicant shall complete Licensee Education on Alcohol and Drugs as provided by the State Department of Alcoholic Beverage Control.
 - D. The applicant shall insure that the serving of alcohol does not cause any condition that will cause or result in repeated activities that are harmful to the health, peace or safety of persons residing or working in the surrounding area. This includes, but is not limited to: disturbances of the peace, illegal drug activity, public drunkenness, drinking in public, harassment of passerby, assaults, batteries, acts of vandalism, loitering, excessive littering, illegal parking, excessive loud noises (especially in the late night or early morning hours), traffic violations or traffic safety based upon last drink statistics, curfew violations, lewd conduct, or police detention and arrests.
- 3. The Planning Commission determines that public convenience or necessity would be served by the issuance of the Use Permit for a Type 41, On-sale Beer and Wine with eating establishment license.
 - 4. This conditional use permit shall be subject to periodic review for compliance with these conditions by the Planning Commission.
 - 5. No variance from any City of Lodi adopted code, policy or specification is granted or implied by the approval of this resolution.

Dated: August 10, 2005

I hereby certify that Resolution No. 05- was passed and adopted by the Planning Commission of the City of Lodi at a regular meeting held on August 10, 2005 by the following vote:

AYES: Commissioners:

NOES: Commissioners:

ABSENT: Commissioners:

ABSTAIN: Commissioners:

ATTEST: _____
Secretary, Planning Commission

**LODI PLANNING COMMISSION
REGULAR COMMISSION MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, SEPTEMBER 14, 2005**

1. CALL TO ORDER / ROLL CALL

The Regular Planning Commission meeting of September 14, 2005, was called to order by Chair Aguirre at 7:00 p.m.

Present: Planning Commissioners – Cummins, Haugan, Heinitz, Kuehne, White, and
Chair Aguirre

Absent: Planning Commissioners – Moran

Also Present: Community Development Co-Manager Joseph Wood, Associate Planner Mark Meissner, Deputy City Attorney Janice Magdich, and Administrative Secretary Kari Chadwick

2. MINUTES

a) "August 10, 2005"

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Haugan, White second, approved the minutes as written.

3. PUBLIC HEARINGS

- a) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Chair Aguirre called for the public hearing to consider the request of Carl Wishek on behalf of the Old Arch Brewing Company for a Use Permit to allow a Type 75 Alcoholic Beverage License-Brewpub for On Sale Beer, Wine, and Distilled Spirits with Eating Establishment at 115 S. School Street.

Mark Meissner reported the project site is located in the recently remodeled Woolworth building across from the Post Office. The applicant originally applied for a Type 23 ABC License back in August 2003 and is now requesting a Type 75 which would allow for distilled spirits as well as a Brew Pub. The Old Arch Brewing Company will be offering lunch & dinner. There is an over concentration of Liquor licenses in this Census Tract area. The license is a trade from one type to another but will still require an approval letter for ABC. Staff recommends approval of this Use Permit.

In response to Commissioner Heinitz, Mr. Meissner stated that this will not add another license to the Census Tract area it will only switch the type of license that was already approved from a Type 23 to a Type 75.

In response to Commissioner Haugan, Mr. Meissner stated that there doesn't need to be a reason why we feel the Use Permit is a Public Convenience. Janice Magdich, Deputy City Attorney, stated that we can include the language that states why we feel there is a Public Convenience. Mr. Haugan would like to see the reason why stated in the Resolution so that in the future it is clear to anyone reading it. Commissioner Heinitz supports Commissioner Haugan's statement for clarification.

In response to Commissioner Haugan, Mr. Meissner stated that the type 75 license can have off site sales. Commissioner Haugan would like to see this limited to on site sales only. He would also like to make sure that someone can't purchase a drink at the bar and walk out the door with it. Ms. Magdich stated that it is limited to on site sales and consumption of Beer, Wine and Distilled Spirits during the hours that the restaurant is open for dinning and off sale of Beer and Wine. Mr. Haugan doesn't mind if they sell to vendors but does not want to see retail sales to the general public.

Vice Chair Kuehne stated that the Lodi beer Company has off site sales (retail) during business hours. Ms. Magdich stated that you can not drink alcoholic beverages in public. She also recommends revisiting the issue after the applicant has had a chance to speak.

Hearing Opened to the Public

- Carl Wishek, 23780 North Kennifick Rd., Acampo, came forward to answer questions.

In response to Commissioner Heinitz, Mr. Wishek stated that they were considering selling a special container called growlers that can be filled and bought so the customer can take Beer home with them. Commissioner Haugan wanted to clarify that the Beer was not going into bottles and being capped and sold.

Public Portion of Hearing Closed

Commissioner Haugan stated that if this is a specialty thing and the other establishment is doing it then he does not have a problem with it. He would not like to see a liquor store theme happen.

Commissioner Kuehne would like to have the word wine deleted from page two paragraph B.

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Heinitz, White second, approved the request of Carl Wishek on behalf of the Old Arch Brewing Company for a Use Permit to allow a Type 75 Alcoholic Beverage License-Brewpub for On Sale Beer, Wine, and Distilled Spirits with Eating Establishment at 115 S. School Street subject to the attached amended resolution. The matter was approved by the following vote:

Ayes: Commissioners – Cummins, Haugan, Heinitz, Kuehne, White and Chair Aguirre
Noes: Commissioners – None
Abstain: Commissioners – None

- b) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Chair Haugan called for the continuation of the public hearing to consider The request of Kirk Smith on behalf of the Velvet Grill Restaurant for a Use Permit to allow a Type 41 Alcohol Beverage License for on sale beer and wine with eating establishment at 1421 South Ham Lane, Lodi

Mark Meissner reported that the Velvet Grill is located on Ham Lane just south of Kettleman Lane. This hearing is continued from the August 10th Commission meeting. Commission requested the police reports and found that most calls were not directly related to the restaurant itself. Three calls for noise late at night were related. One call was for general partying in the side parking lot, one for skateboarding, and one for pressure washing part of the building. There were no reports directly related to the employees drinking. The reports are for a five year period so there doesn't seem to be an on going problem. Staff finds that the Velvet Grill is a restaurant and because of that feel there will not be any alcohol related problems. Staff also finds that the restaurant is conditioned by ABC to have food receipts in excess of beer and wine receipts. It is also a condition in the resolution that repeated disturbances would result in revocation of this Use Permit. Staff recommends approval of the request subject to the attached resolution.

Mr. Meissner stated that he called to make sure someone would be at the meeting to represent the applicant.

Hearing Opened to the Public

- Wesley Wemet, 412 N. California Street, assistant manager for the restaurant.

In response to Commissioner Heinitz, Mr. Wemet stated that he has not had any dialogue with the complainant but he is aware of the problems and concerns. He stated that the applicant gave him a piece of paper with answers to the questions on it. Mr. Wemet read the statement that the applicant gave to him and they are as follows:

1. We are only open until 10:00 pm at the latest.
2. We have been serving beer and wine at the other three locations for over twelve years with no violations or incidents relating to the sale of such.
3. We have operated this restaurant since June of 2004 and have developed a crew over the passed year to be able to serve beer and wine in an appropriate manner.
4. We will offer beer or wine to those customers that wish to have it with very little attempt to sell these beverages via marketing or other means.
5. Employees are not allowed to drink these beverages with strict inventory controls to help assure this.
6. In regards to a neighbor, Mr. John Miller's issue, all issues were either not related to this establishment or have been addressed as so to minimize future concerns.

In response to Chair Aguirre, Mr. Wemet stated that Mr. Smith is at the location in Alameda.

Commissioner Haugan stated that one of his concerns was that the owner felt that it wasn't necessary for him to be here. He feels that this issue is being taken as less than important. Mr. Haugan doesn't have a problem with the serving of the beverages being requested but there is a problem with the owner by his lack of presence. He also said he had no problem with the request.

Commissioner Heinitz stated that the cavalier attitude of the establishment, the fact that the owner doesn't find the importance of being here and a preprinted answer sheet was sent with Mr. Wemet, leads to the assumption that the cavalier attitude will carry over into the serving of the beer and wine and he doesn't see it having the control that is needed. He did not want to vote in favor of this the last time and will not support it at this time.

In response to Commissioner Cummins, Mr. Wemet stated the Kirk Smith is the president of the company and Chris Gianulias owns the building. Bill Owens, who lives in Santa Barbara, owns the franchise.

Jonathan Miller, 1424 Claret Ct., stated that the fact that the owner isn't present is indicative of the response he has gotten in the past. He also wanted to make it clear that not all the calls that he made were to the police he did call the owner directly. He has no problem with the serving of the beer and wine but he questions the maturity level of the staff.

Public Portion of Hearing Closed

Commissioner Heinitz is disappointed that the applicant didn't show up and feels it's just going to be a loose run operation and can not support it.

Commissioner White stated that the Use Permit goes with the property not with the owner. He would like to hear in the staff report why the owner believes that there is a public necessity or convenience. He is not in favor at this time.

In response to Commissioner Haugan, Mr. Meissner stated that the application was made by the Velvet Restaurants Inc. but Chris Gianulias brought the application in.

Commissioner Haugan felt that the franchise owner should show a little more interest. He is not in favor of this.

Commissioner Heinitz requested clarification from council regarding the names having to be the same on all the licenses and Use Permits. Janice Magdich, Deputy City Attorney, stated that the names should all be the same. In the past there has not been a history of making them both

comply because the applicant will in some instances apply for the Use Permit and then at a later date apply for the ABC License.

Commissioner Heinitz feels that the person whom is obtaining the Use Permit is an important factor.

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Cummins, Heinitz second, rejected the request of Kirk Smith on behalf of the Velvet Grill Restaurant for a Use Permit to allow a Type 41 Alcohol Beverage License for on sale beer and wine with eating establishment at 1421 South Ham Lane, Lodi. The matter was approved by the following vote:

Ayes: Commissioners – Cummins, Haugan, Heinitz, Kuehne, White, and Chair Aguirre
Noes: Commissioners – None
Abstain: Commissioners – None

Chair Aguirre notified the representative of the applicant's right to appeal.

4. PLANNING MATTERS
None

5. ANNOUNCEMENTS AND CORRESPONDENCE
None

6. ACTIONS OF THE CITY COUNCIL
None

7. ACTIONS OF THE SITE PLAN AND ARCHITECTURAL REVIEW COMMITTEE
None

8. UPDATE ON COMMUNITY SEPARATOR/GREENBELT TASK FORCE
None

9. COMMENTS BY THE PUBLIC
None

10. ADJOURNMENT

There being no further business to come before the Planning Commission, the meeting was adjourned at 7:45 p.m.

ATTEST:

Kari Chadwick
Administrative Secretary

CITY COUNCIL

JOHN BECKMAN, Mayor
SUSAN HITCHCOCK,
Mayor Pro Tempore
LARRY D. HANSEN
BOB JOHNSON
JOANNE L. MOUNCE

CITY OF LODI

CITY HALL, 221 WEST PINE STREET
P.O. BOX 3006
LODI, CALIFORNIA 95241-1910
(209) 333-6711
FAX (209) 333-6842
rhatch@lodi.gov

BLAIR KING

City Manager
SUSAN J. BLACKSTON
City Clerk
D. STEPHEN SCHWABAUER
City Attorney

October 14, 2005

Mr. Kirk Smith
c/o Velvet Restaurants, Inc.
698 Sugarwood Court
Galt, CA 95355

SUBJECT: USE PERMIT APPLICATION: U-05-011
VELVET GRILL RESTAURANT, TYPE 41 LIQ. LIC.
1421 SOUTH HAM LANE, LODI.

Mr. Smith:

At its meeting of Wednesday, October 12, 2005, the Lodi City Planning Commission confirmed their denial of your request for a Use Permit to establish a Type 41, On-Sale Beer and Wine liquor license for the Velvet Grill Restaurant located at 1421 South Ham Lane, Lodi. The Planning Commission's denial is based on the findings set forth in the revised Resolution No. PC 05-29. This revised resolution supersedes the previous resolution sent to you in the letter dated September 15th. Please disregard that resolution, as it is no longer valid.

For your information, your appeal to the City Council is planned to be heard at their public hearing of November 16, 2005. You will receive official notice of this meeting in the near future. If you have any questions, please contact me at one the options listed above.

Sincerely,

Randy Hatch
Community Development Director

enclosure: Res. 05-29

cc: Alcoholic Beverage Control
Velvet Restaurants Inc.
Chris Gianulias

RESOLUTION NO. P.C. 05-29

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LODI DENYING
THE REQUEST OF KIRK SMITH ON BEHALF OF THE VELVET GRILL AND
CREAMERY RESTAURANT FOR A USE PERMIT TO ALLOW A TYPE 41 ALCOHOLIC
BEVERAGE LICENSE FOR ON SALE BEER AND WINE WITH A RESTAURANT AT
1421 S. HAM LANE, SUITE A.**

WHEREAS, the Planning Commission of the City of Lodi has heretofore held a duly noticed public hearing on September 28, 2005, as required by law, on the requested Use Permit, in accordance with the Lodi Municipal Code, Section 17.72.070; and

WHEREAS, the project proponent is Kirk Smith on behalf of the Velvet Grill and Creamery Restaurant; and

WHEREAS, all legal prerequisites to the adoption of this Resolution have occurred; and

WHEREAS, the property is zoned PD, Planned Development for Commercial Shopping; and

WHEREAS, the property is located at 1421 South Ham Lane, Lodi, CA (APN 060-020-04) and is currently operating as a restaurant; and

WHEREAS, Census Tract 43.06 in which the restaurant is located is currently operating with eight existing on sale licenses with eight allowable; and

WHEREAS, the requested liquor license would be the 9th on sale liquor license creating an over concentration for the Census Tract; and

WHEREAS, the Planning Commission's review of liquor licenses must take into consideration the General Plan's Land Use and Growth Management Element Goal E, Policy 7 "In approving new commercial projects, the City shall seek to ensure that such projects reflect the City's concern for achieving and maintaining high quality development," and Health and Safety Element Goal D, "To prevent crime and promote the personal security of Lodi residents;" and

WHEREAS, the Planning Commission requires review and approval of a use permit for all new liquor licenses within the City of Lodi to allow a public forum for discussion and deliberation to insure new commercial projects achieve and maintain a high quality of development, and prevent potential impacts that could be detrimental to the public's welfare.

NOW, THEREFORE, BE IT FOUND, DETERMINED AND RESOLVED by the Planning Commission of the City of Lodi as follows.

1. The Applicant failed to provide the information necessary for the Planning Commission to determine whether the project would achieve and maintain a high quality of development, and whether the public's welfare would be served by approving the requested Use Permit to this applicant. Therefore, Use Permit Application No. U-05-011 is hereby denied.

Dated: October 12, 2005

I hereby certify that Resolution No. 05-29 was passed and adopted by the Planning Commission of the City of Lodi at a regular meeting held on October 12, 2005 by the following vote:

AYES: Commissioners:

NOES: Commissioners:

ABSENT: Commissioners:

ABSTAIN: Commissioners:

ATTEST: _____
Secretary, Planning Commission

PROOF OF PUBLICATION

(2015.5 C.C.C.P.)

STATE OF CALIFORNIA

County of San Joaquin

I am a citizen of the United States and a resident of the County aforesaid: I am over the age of eighteen years and not a party to or interested in the above entitled matter. I am the principal clerk of the printer of the Lodi News-Sentinel, a newspaper of general circulation, printed and published daily except Sundays and holidays, in the City of Lodi, California, County of San Joaquin and which newspaper had been adjudicated a newspaper of general circulation by the Superior Court, Department 3, of the County of San Joaquin, State of California, under the date of May 26th, 1953. Case Number 65990; that the notice of which the annexed is a printed copy (set in type not smaller than non-pareil) has been published in each regular and entire issue of said newspaper and not in any supplement thereto on the following dates to-wit:

November 5th

all in the year 2005.

I certify (or declare) under the penalty of perjury that the foregoing is true and correct.

Dated at Lodi, California, this 5th day of November, 2005

Signature

This space is for the County Clerk's Filing Stamp

Proof of Publication of
Special Notice of Public Hearing for November 16, 2005,
Consider an appeal of the Planning Commission decision to deny the request of Kirk Smith on behalf of Velet Grill for a use permit (U-05-011) to all a Type 41 Alcoholic Bevera License for on sale beer and wine with a restaurant at 1421 S. Ham Lane, Suite A

NOTICE OF PUBLIC HEARING
NOTICE IS HEREBY GIVEN that on Wednesday, November 16, 2005 at the hour of 7:00 p.m., or as soon thereafter as the matter may be heard, the City Council will conduct a public hearing at the Carnegie Forum, 305 West Pine Street, Lodi, to consider the following matter:

a) to consider an appeal of the Planning Commission's decision to deny the request of Kirk Smith on behalf of Velvet Grill for a Use Permit (U-05-011) to allow a Type 41 Alcoholic Beverage License for on sale beer and wine with a restaurant at 1421 South Ham Lane, Suite A.

Information regarding this item may be obtained in the office of the Community Development Department, 221 West Pine Street, Lodi, California. All interested persons are invited to present their views and comments on this matter. Written statements may be filed with the City Clerk at any time prior to the close of the hearing scheduled herein, and oral statements may be made at said hearing.

If you challenge the subject matter in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice or in written correspondence delivered to the City Clerk, 221 West Pine Street, at or prior to the close of the public hearing.

By Order of the Lodi City Council:
Susan J. Blackston
City Clerk

Dated: November 2, 2005.

Approved as to form:

D. Stephen Schwabauer
City Attorney
November 5, 2005 - 08502293

8502393



DECLARATION OF MAILING

PUBLIC HEARING FOR NOVEMBER 16, 2005, CONSIDER AN APPEAL OF THE PLANNING COMMISSION'S DECISION TO DENY THE REQUEST OF KIRK SMITH ON BEHALF OF VELVET GRILL FOR A USE PERMIT (U-05-011) TO ALLOW A TYPE 41 ALCOHOLIC BEVERAGE LICENSE FOR ON SALE BEER AND WINE WITH A RESTAURANT AT 1421 SOUTH HAM LANE, SUITE A.

On November 3, 2005, in the City of Lodi, San Joaquin County, California, I deposited in the United States mail, envelopes with first-class postage prepaid thereon, containing a Consider an Appeal of the Planning Commission's decision to deny the request of Kirk Smith on behalf of Velvet Grill for a use permit (U-05-011) to allow a Type 41 Alcoholic Beverage License for on sale beer and wine with a restaurant at 1421 South Ham Lane, Suite A

There is a regular daily communication by mail between the City of Lodi, California, and the places to which said envelopes were addressed.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on November 3, 2005, at Lodi, California.

ORDERED BY:

**SUSAN BLACKSTON
CITY CLERK, CITY OF LODI**

ORDERED BY:

JENNIFER M. PERRIN, CMC
DEPUTY CITY CLERK

A handwritten signature in cursive script, reading "Dana R. Chapman", is written over a horizontal line.

DANA R. CHAPMAN
ADMINISTRATIVE CLERK

JACQUELINE L. TAYLOR, CMC
DEPUTY CITY CLERK

U-05-011 -- Velvet Grill

APN;OWNER;ADDRESS;CITY;STATE;ZIP;SITUSNUM;SITUSDIR;SITUSSTNAME;SITUSTYP
E

06002003;MIYAHARA, KAZUO & HATSUMI TR ;PO BOX 2198 ;MEMPHIS
;TN;38101;1300;W ;KETTLEMAN ;LN

06003074;DAVIDSON, JERROLD P & KIMBER I;497 N 71ST ;SPRINGFIELD
;OR;97478;1511;S ;BURGUNDY ;DR

06002004;GIANULIAS, CHRIS & PAULINE;3220 PROVINCE TOWNE
CT;MODESTO;CA;95355;1421;S;HAM;LN

06003011;PHARR, MARGARET ELINOR TR;1925 NORFOLK
DR;LODI;CA;95242;1512;S;BURGUNDY;DR

06003012;ALBERT, MARK J & KIM L;1506 BURGUNDY
DR;LODI;CA;95242;1506;S;BURGUNDY;DR

06003013;JENSON, SUSAN J;1500 BURGUNDY
DR;LODI;CA;95242;1500;S;BURGUNDY;DR

06003014;GAUNA, CESAREO & AURORA A;1401 VIN ROSE
DR;LODI;CA;95242;1401;W;VIN ROSE;DR

06003015;PARDELLA, JOHN F & CAROLE M TR;2013 TYLER
WAY;LODI;CA;95242;1407;W;VIN ROSE;DR

06003016;SOROUR, NAGUI & LAILA;1343 RIVERGATE
DR;LODI;CA;95240;1430;S;CLARET;CT

06003017;MILLER, JONATHAN & JEAN MARIE;1424 CLARET
CT;LODI;CA;95242;1424;S;CLARET;CT

06003018;MORRIS, DAVID P & RAE JEAN;1418 CLARET
CT;LODI;CA;95242;1418;S;CLARET;CT

06003019;KENNEDY, KERRIE E;1419 CLARET
CT;LODI;CA;95242;1419;S;CLARET;CT

06003020;SHAH, FIAZ & SHAHNAZ;1953 VICTORIA
DR;LODI;CA;95242;1425;S;CLARET;CT

06003021;BADER, LADON G & KATHIE M TR;1124 W TOKAY
ST;LODI;CA;95240;1431;S;CLARET;CT

06003022;PLACENCIA, CONSUELO TR;2621 APPIAN
WAY;PINOLE;CA;94564;1432;;ZINFANDEL;DR

06003023;SINGH, MANJIT & JASWINDER KAUR;2072 PROVIDENCE
WAY;LODI;CA;95242;1426;S;ZINFANDEL;DR

06003024;HIETBRINK, GARY A & NANCY A;1420 ZINFANDEL
DR;LODI;CA;95242;1420;S;ZINFANDEL;DR

U-05-011 - Velvet Grill

06003070;SHAH, ZAKIR H;1420 VIN ROSE DR;LODI;CA;95242;1420;W;VIN
ROSE;DR

06003071;SIDHU, INDERJIT S & PARDEEP;1414 VIN ROSE
DR;LODI;CA;95242;1414;W;VIN ROSE;DR

06003072;FILOMEO, DONALD & ELFONDA L;1408 VIN ROSE
DR;LODI;CA;95242;1408;W;VIN ROSE;DR

06003073;PRIDMORE, ALOHA R TRUSTEE;1110 W PINE
ST;LODI;CA;95240;1402;W;VIN ROSE;DR

06004001;CUPERTINO NATIONAL BANK;400 EMERSON ST;PALO
ALTO;CA;94301;1230;W;KETTLEMAN;LN

06005101;HUTMACHER, DOUGLAS D & KERRY J;1227 W CHIANTI
DR;LODI;CA;95240;1227;W;CHIANTI;DR

06005102;BIANCHI, ROCKY & LINDA;1221 W CHIANTI
DR;LODI;CA;95240;1221;W;CHIANTI;DR

06005103;KLUDT, RICHARD A & PAMELA G;1215 CHIANTI
DR;LODI;CA;95240;1215;W;CHIANTI;DR

Smith Kirk, Velvet Grill
1420 S. HAM LN. STE A

CITY COUNCIL

JOHN BECKMAN, Mayor
SUSAN HITCHCOCK,
Mayor Pro Tempore
LARRY D. HANSEN
BOB JOHNSON
JOANNE MOUNCE

CITY OF LODI

CITY HALL, 221 WEST PINE STREET
P.O. BOX 3006
LODI, CALIFORNIA 95241-1910
(209) 333-6702
FAX (209) 333-6807
cityclrk@lodi.gov

BLAIR KING, City Manager
SUSAN J. BLACKSTON
City Clerk
D. STEPHEN SCHWABAUER
City Attorney

November 3, 2005

MAILED CERTIFIED MAIL
AND REGULAR U.S. POSTAL DELIVERY

Kirk Smith
Velvet Grill
1421 S. Ham Lane
Lodi, CA 95242

NOTICE OF CITY COUNCIL PUBLIC HEARING – November 16, 2005

This letter is to notify you that a public hearing will be held by the City Council on **Wednesday, November 16, 2005, at 7:00 p.m.**, or as soon thereafter as the matter can be heard, at the Carnegie Forum, 305 W. Pine Street, Lodi.

This hearing is being held to consider your appeal of the Planning Commission decision on September 14, 2005 to deny Use Permit U-05-011 to allow a Type 41 Alcoholic Beverage Control License for on sale beer and wine with a restaurant at 1421 S. Ham Lane, Suite A.

If you challenge the proposed action in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City Council at, or prior to, the public hearing. *Note: Written correspondence for the City Council may be mailed in c/o the City Clerk's Office, P.O. Box 3006, Lodi, CA 95241-1910, or delivered to the City Clerk at 221 West Pine Street, Lodi, California.*

Should you have any questions, please contact my office or the Community Development Department at (209) 333-6711.

Sincerely,



Susan J. Blackston
City Clerk

cc: Community Development Department



DECLARATION OF POSTING

**PUBLIC HEARING FOR NOVEMBER 16, 2005, CONSIDER AN APPEAL OF THE
PLANNING COMMISSION'S DECISION TO DENY THE REQUEST OF KIRK SMITH
ON BEHALF OF VELVET GRILL FOR A USE PERMIT (U-05-011) TO ALLOW A
TYPE 41 ALCOHOLIC BEVERAGE LICENSE FOR ON SALE BEER AND WINE WITH
A RESTAURANT AT 1421 SOUTH HAM LANE, SUITE A.**

On Thursday, November 3, 2005, in the City of Lodi, San Joaquin County, California, a notice of public hearing to Consider an Appeal of the Planning Commission's decision to deny the request of Kirk Smith on behalf of Velvet Grill for a use permit (U-05-011) to allow a Type 41 Alcoholic Beverage License for on sale beer and wine with a restaurant at 1421 South Ham Lane, Suite A

Lodi Public Library
Lodi City Clerk's Office
Lodi City Hall Lobby
Lodi Carnegie Forum

I declare under penalty of perjury that the foregoing is true and correct.

Executed on November 3, 2005, at Lodi, California.

ORDERED BY:

**SUSAN J. BLACKSTON
CITY CLERK**

JENNIFER M. PERRIN, CMC
DEPUTY CITY CLERK

JACQUELINE L. TAYLOR, CMC
DEPUTY CITY CLERK

A handwritten signature in dark ink, appearing to read "Dana R. Chapman", is written over a horizontal line.

DANA R. CHAPMAN
ADMINISTRATIVE CLERK



CITY OF LODI

Carnegie Forum
305 West Pine Street, Lodi

NOTICE OF PUBLIC HEARING

Date: November 16, 2005

Time: 7:00 p.m.

For information regarding this notice please contact:

Susan J. Blackston

City Clerk

Telephone: (209) 333-6702

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that on **Wednesday, November 16, 2005** at the hour of 7:00 p.m., or as soon thereafter as the matter may be heard, the City Council will conduct a public hearing at the Carnegie Forum, 305 West Pine Street, Lodi, to consider the following matter:

a) to consider an appeal of the Planning Commission's decision to deny the request of Kirk Smith on behalf of Velvet Grill for a Use Permit (U-05-011) to allow a Type 41 Alcoholic Beverage License for on sale beer and wine with a restaurant at 1421 South Ham Lane, Suite A

Information regarding this item may be obtained in the office of the Community Development Department, 221 West Pine Street, Lodi, California. All interested persons are invited to present their views and comments on this matter. Written statements may be filed with the City Clerk at any time prior to the close of the hearing scheduled herein, and oral statements may be made at said hearing.

If you challenge the subject matter in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice or in written correspondence delivered to the City Clerk, 221 West Pine Street, at or prior to the close of the public hearing.

By Order of the Lodi City Council:

Susan J. Blackston
City Clerk

Dated: November 2, 2005.

Approved as to form:

D. Stephen Schwabauer
City Attorney



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Appointment to the Lodi Arts Commission

MEETING DATE: November 16, 2005

PREPARED BY: City Clerk

RECOMMENDED ACTION: That Council, by motion action, concur with the Mayor's recommended appointment to the Lodi Arts Commission.

BACKGROUND INFORMATION: As indicated below, the City Clerk's Office was directed to post for the vacancy on the Lodi Arts Commission. It is recommended that the City Council concur with the following appointment.

Lodi Arts Commission

Nancy Carey Term to expire July 1, 2006 (*posting of vacancy ordered on 9/21/05*)

NOTE: *Two applicants (two applications on file);
published in Lodi News-Sentinel 9/24/05;
application deadline 10/24/05*

FISCAL IMPACT: None.

FUNDING AVAILABLE: None required.

Susan J. Blackston
City Clerk

SJB/JMP

APPROVED: _____
Blair King, City Manager



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Review Regional Transportation Impact Fee (RTIF) Report and Provide Direction Regarding Future Implementation

MEETING DATE: November 16, 2005

PREPARED BY: Public Works Director

RECOMMENDED ACTION: That the City Council review the Regional Transportation Impact Fee (RTIF) report and direct staff to pursue implementation of the RTIF by bringing back the ordinance, modified for Lodi's Code, for consideration, introduction and adoption, and, with adoption, the RTIF operating agreement and fee resolution.

BACKGROUND INFORMATION: The San Joaquin Council of Governments (COG), with the participation of our City Council representative and staff has studied and adopted a new fee program to help pay for regional transportation improvements. Such a program was encouraged as part of Measure K – the ½-cent transportation sales tax in this County. (A local transportation fee was required as part of Measure K.)

The COG has asked San Joaquin County and each City to adopt this program (see letter, Exhibit A). As noted in the letter, Pennino & Associates will be presenting background information on the RTIF to help seek Council's approval.

The RTIF consists of:

- Technical Report dated October 27, 2005 (the "nexus study") – Exhibit B – This report provides the technical documentation and analysis supporting the fee program and the maximum fee.
- Operating Agreement – Exhibit C – This agreement details the procedures for setting, collecting and administering the fees.
- Model Ordinance – Exhibit D – This model ordinance provides the legal basis for implementing the fee program.
- Model Resolution – Exhibit E – This model resolution actually sets the fees.

Some of the highlights of the program are:

- The proposed fees are:
 - \$2,500 per single-family dwelling
 - \$1,500 per multi-family dwelling unit
 - \$1.00 per retail building square foot
 - \$1.25 per office building square foot
 - \$0.75 per industrial building square foot

APPROVED: _____
Blair King, City Manager

Review Regional Transportation Impact Fee (RTIF) Report and Provide Direction Regarding Future Implementation

November 16, 2005

Page 2

- The fee is automatically adjusted each July 1 by the change in the Engineering News Record Construction Cost Index.
- The fees are to be solely used for projects listed in the technical report.
- 10% of the funds collected by Cities are provided to San Joaquin County for RTIF projects located within the County.
- 10% of the funds collected by each agency are provided to the COG for State Highway projects on the RTIF list.
- 5% of the funds collected by each agency are provided to the COG for transit improvements on the RTIF list.
- 75% of the funds collected by each City (85% County) may be retained by the agency for RTIF projects at their discretion or provided to COG for an RTIF project.
- Up to 2% of the first million dollars retained by each agency may be used for administrative costs (plus up to 1% of amounts over one million).
- RTIF funds are to be kept in a separate fund and inter-fund borrowing is specifically prohibited, except within the RTIF program.
- Semi-annual and annual reporting is required.
- Except for the annual index adjustment, there is a 5-year “freeze” on the fees and the program, with 5-year updates following.
- Provisions for RTIF projects built by development projects are included, similar to the City’s fee program.
- The City will need to evaluate its own transportation fee program, due to adoption of the RTIF.

In keeping with the intent of Measure K and recognizing the growing need for transportation funding, City staff is supportive of the RTIF.

FISCAL IMPACT: Additional transportation funding actually available to Lodi will depend on development activity. The City’s current fee for transportation projects is \$12,969 per low-density residential acre or approximately \$2,600 per single-family unit. Clearly, the RTIF would be a significant increase in available funding.

FUNDING AVAILABLE: Not applicable.

Richard C. Prima, Jr.
Public Works Director

RCP/pmf

Attachments

cc: Wally Sandelin, City Engineer
SJCOG – Andy Chesley
Pennino & Associates



SAN JOAQUIN COUNCIL OF GOVERNMENTS

555 E. Weber Avenue • Stockton, California 95202

209.468.3913 • 209.468.1084 (fax)

www.sjco.org

November 1, 2005

Gary L. Haskin
CHAIR

John Harris
VICE CHAIR

Andrew Chesley
INTERIM EXECUTIVE
DIRECTOR

Member Agencies

CITIES OF
ESCALON,
LATHROP,
LODI,
MANTEGA,
RIPON,
STOCKTON,
TRACY,
AND
THE COUNTY OF
SAN JOAQUIN

Mr. Blair King, City Manager
City of Lodi
221 W. Pine Street
Lodi, CA 95240

Dear Mr. King:

On October 27, 2005, the Board of Directors of the San Joaquin Council of Governments (SJCOG) unanimously adopted the Regional Transportation Impact Fee (RTIF) program. Enclosed for the City of Lodi's review are the RTIF Technical Report, Ordinance, and Operating Agreement. In addition, a Draft Resolution designed to be used by each participating agency to establish the San Joaquin County RTIF Program Fees is enclosed for your review.

The consulting firm of Pennino & Associates has been secured by SJCOG to coordinate the presentation of the RTIF program with all jurisdictions. It is SJCOG's goal to present the RTIF program to all jurisdictions during the months of November and December. Within the next week, you will be contacted to arrange for the RTIF program to be scheduled for action by the Lodi City Council.

It is at the discretion of each jurisdiction to adopt the RTIF program by ordinance or by resolution. Whatever approach the City of Lodi plans to pursue, SJCOG staff will be available to assist in any way possible.

Please direct any questions regarding the RTIF program documents to Michael Swearingen, SJCOG Senior Regional Planner at (209) 468-3913.

Thank you for your immediate attention to the delivery the RTIF Program to the City Council for their review and consideration.

Sincerely,

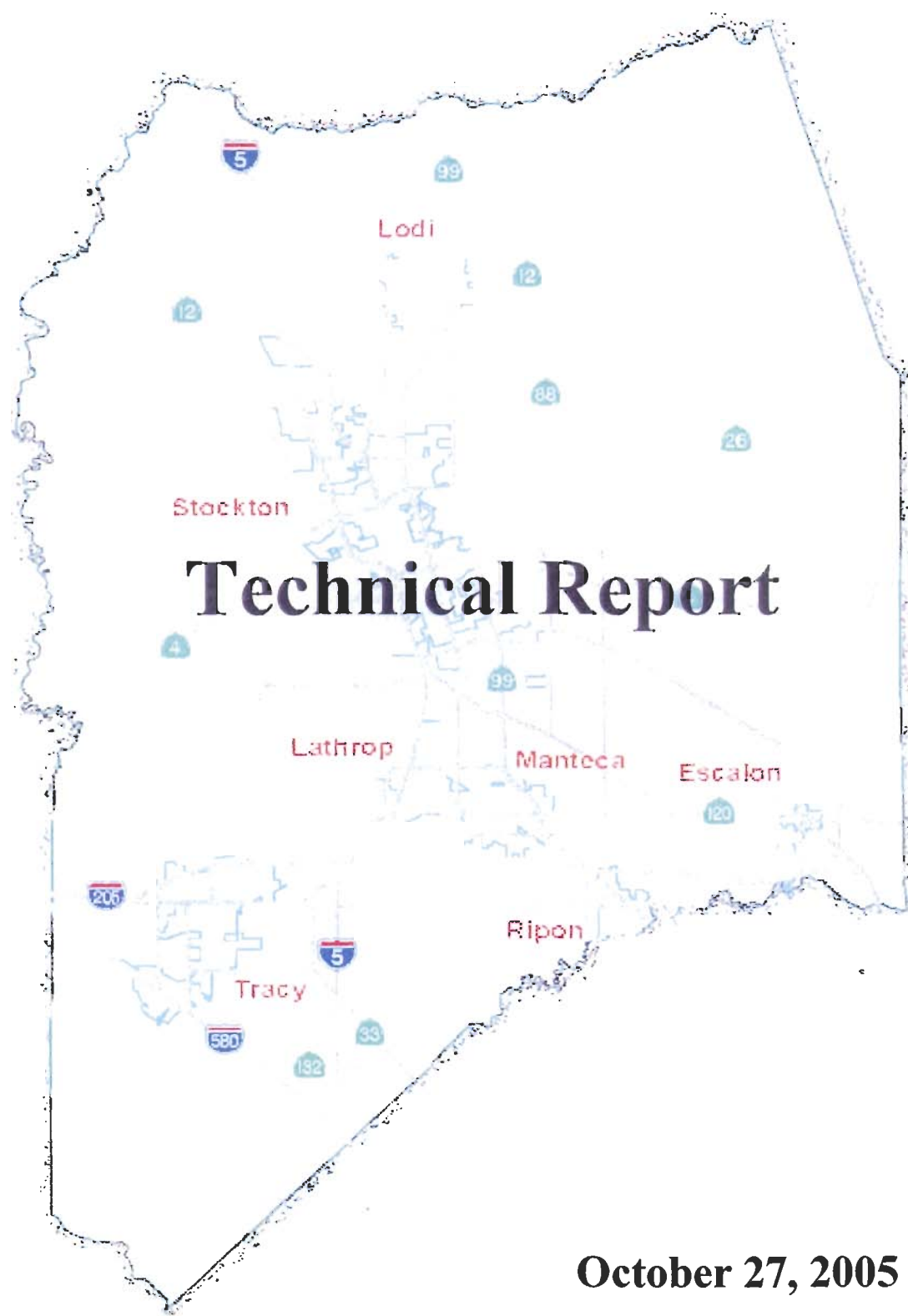
ANDREW T. CHESLEY
Interim Executive Director

cc Council Member, Larry D. Hansen

NOV 01 2005
CITY MANAGER'S OFFICE



REGIONAL TRANSPORTATION IMPACT FEE



October 27, 2005



Economic &
Planning Systems
Real Estate Economics
Regional Economics
Public Finance
Land Use Policy

FINAL REPORT

SAN JOAQUIN REGIONAL TRANSPORTATION IMPACT FEE

Prepared for:

San Joaquin Council of Governments

Prepared by:

Economic & Planning Systems, Inc.
and
Fehr & Peers Associates Inc.

October 2005

EPS #15040

BERKELEY
2501 Ninth St., Suite 200
Berkeley, CA 94710-2515
www.epsys.com

Phone: 510-841-9190
Fax: 510-841-9208



SACRAMENTO
Phone: 916-649-8010
Fax: 916-649-2070

DENVER
Phone: 303-623-3557
Fax: 303-623-9049

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I. INTRODUCTION AND RESULTS

This Technical Report is designed to provide participating jurisdictions in San Joaquin Region with the necessary technical documentation and nexus analysis supporting the adoption of a Regional Transportation Impact Fee (RTIF) Ordinance. It has been prepared by Economic & Planning Systems, Inc. (EPS) and Fehr & Peers Associates Inc., with input and guidance from the San Joaquin Council of Governments (SJCOG). The RTIF program described in this Report is based on current growth projections and infrastructure requirements and is consistent with the most recent relevant case law and the principles of AB1600 or Government Code Section 66000 et seq ("Fees for Development Projects"; except where specific citations are provided, this statute will be referred to in this Report as AB 1600).

Following this introductory chapter, **Chapter II** discusses the land use growth projections used in this analysis and **Chapter III** describes the RTIF capital costs. **Chapter IV** describes the modeling techniques used to establish nexus for the RTIF program and the resulting RTIF program fee calculation by land use category.

PURPOSE OF PROPOSED FEES AND TECHNICAL REPORT

The RTIF program described in this Report will provide funding for regional transportation improvements required to serve new development and to ensure that existing service levels can be maintained. To the extent that required improvements serve both new and existing development, or travel through the San Joaquin Region, only the portion that is attributable to new development inside the region is included in the RTIF program. It is expected that the RTIF program funding will be augmented by other revenue sources to meet overall funding requirements, particularly Measure K funding and State and Federal Grants.

This Report also provides a schedule of fees to be established by the RTIF Ordinance and/or Resolution. This Report and the technical information it contains should be maintained and reviewed periodically by the SJCOG and participating jurisdictions as necessary to ensure its accuracy and to enable the adequate programming of funding sources. To the extent that improvement requirements, costs, or development potential changes over time, the RTIF program will need to be updated.

The proposed RTIF program fee, if approved, will need to be enabled through adoption by participating jurisdictions of a new Ordinance or Resolution. The enabling Ordinance would allow the jurisdiction to adopt, by Resolution, a fee schedule consistent with supporting technical analysis and findings. The Resolution approach to setting the fee allows periodic adjustments of the fee amount that may be necessary over time, without amending the enabling Ordinance.

SUMMARY OF MAXIMUM AND PROPOSED FEES

A summary of the maximum fees calculated in this RTIF Technical Report by land use category are provided in **Table 1** and summarized below. Because of insufficient data on office growth projection, office category is included as part of the commercial/industrial category.

- \$2,512 per single-family unit
- \$1,542 per multifamily unit
- \$4.65 per retail square foot
- \$2.13 per commercial/industrial square foot

The fees shown above represent the maximum fee that can be charged based on the nexus findings described in this Report. These fees are calculated to generate sufficient revenue to cover the RTIF capital facility costs associated with new development in the County. Participating jurisdictions may as a matter of policy decide to charge a fee below the maximum fee for any or all of the land uses. However, the revenue shortfall to the RTIF program that would result from reducing the fees must be made up by other non-RTIF revenue sources. Specifically, the fee levels for certain land uses cannot be raised to cover revenue shortfalls that result from lowering the fees on other land uses.

SJCOG in conjunction with participating agencies have proposed to charge a fee below the maximum amount legally allowed based on the nexus calculations presented above. A comparison between the maximum RTIF fee and the proposed RTIF fee is presented in **Table 1** of this report.

The fee reduction is based on key stakeholders (i.e., developers, elected officials, city/county officials) goal to mitigate the impact new growth has on the regional transportation system as well as continue to foster economic development, job creation, and sales tax generation. The proposed fees represent a consensus reached by the region's leaders based on the analysis of economic drivers pertinent to the San Joaquin region.

IMPLEMENTATION AND LEGAL CONSIDERATIONS

ANNUAL REVIEW

AB 1600 (at Gov. C. §§ 66001(c), 66006(b)(1)) stipulates that each local agency that requires payment of a fee make specific information available to the public annually within 180 days of the last day of the fiscal year. This information includes the following:

Table 1
Regional Transportation Impact Fee Amount
San Joaquin RTIF Nexus Study; EPS #15040

Category	Maximum RTIF Fee	Proposed RTIF Fee
Total Fee Revenue	\$410,230,388	\$374,620,076
Fee Per Single-Family Unit	\$2,512	\$2,500
Fee Per Multi-Family Unit	\$1,542	\$1,500
Fee Per Retail Sqft.	\$4.65	\$1.00
Fee Per Commercial/Industrial Sqft. (1)		
Office	\$2.13	\$1.25
Industrial	\$2.13	\$0.75

(1) The maximum RTIF fee calculation combines office and industrial land use categories due to insufficient data to separate the two categories.

- A description of the type of fee in the account.
- The amount of the fee.
- The beginning and ending balance of the fund.
- The amount of fees collected and interest earned.
- Identification of the improvements constructed.
- The total cost of the improvements constructed.
- The fees expended to construct the improvement.
- The percent of total costs funded by the fee.

If sufficient fees have been collected to fund the construction of an improvement, the agency must specify the approximate date for construction of that improvement. Because of the dynamic nature of growth and infrastructure requirements, participating jurisdictions and the SJCOG should monitor development activity, the need for infrastructure improvements, and the adequacy of the fee revenues and other available funding. Formal annual review of the CFF program should occur, at which time adjustments should be made. Costs associated with this monitoring and updating effort can be included in the RTIF program.

SURPLUS FUNDS

AB 1600 also requires that if any portion of a fee remains unexpended or uncommitted in an account for five years or more after deposit of the fee, the City Council shall make findings once each year: (1) to identify the purpose to which the fee is to be put, (2) to demonstrate a reasonable relationship between the fee and the purpose for which it was charged, (3) to identify all sources and amounts of funding anticipated to complete financing of incomplete improvements, and (4) to designate the approximate dates on which the funding identified in (3) is expected to be deposited into the appropriate fund (§66001(d)).

If adequate funding has been collected for a certain improvement, an approximate date must be specified as to when construction on the improvement will begin. If the findings show no need for the unspent funds, or if the conditions discussed above are not met, and the administrative costs of the refund do not exceed the refund itself, the local agency that has collected the funds must refund them (Gov. C §66001(e)(f)).

SECURING SUPPLEMENTAL FUNDING

The RTIF program identifies \$561 million in capital projects that can be funded in full or in part by impact fee revenue. However, the RTIF revenue generated is itself not sufficient or appropriate for funding the full amount of the RTIF capital projects identified in this Technical Report. For example, out of the \$561 million in RTIF capital projects, approximately \$128 million can be attributable to trips that originate or end outside the San Joaquin Region. The new facility costs attributable to these "external trips" cannot be covered by impact fee revenue. In addition, the SJCOG Board may

approve fee levels that are lower than the maximum amount allowed based on the nexus analysis, further reducing the revenue available to the RTIF program. Thus, to fully implement the RTIF program, the SJCOG will have to obtain funding and pay for improvements not covered by impact fee revenue. Examples of such sources include Measure K funds; CALTRANS funding; and other local, State and federal sources. Ultimately, funding for the entire cost of the RTIF program must be identified and allocated during the life of the RTIF program.

II. RTIF GROWTH PROJECTIONS

The RTIF program fee is a one-time fee levied on new development at a rate proportional to its demand for transportation capital improvements. Thus, a forecast of new development in the San Joaquin Region is required to calculate the fee. This Chapter documents the land use growth assumptions used to calculate the RTIF program fee. Specifically, it describes the amount of residential, retail, and commercial/industrial land use development expected to occur in San Joaquin Region through the year 2030. These estimates are used for the following primary purposes in the fee calculation:

- Estimates of existing and future development are used to evaluate future traffic levels and determine the need for transportation improvements in the San Joaquin Region.
- Estimates of future development are used to allocate the costs of required transportation improvements and ultimately to calculate a fee per unit of new growth.

The following sections describe the development projections and the key assumptions underlying them.

TIME HORIZON

The time horizon for an impact fee program is important because it determines the type and amount of transportation improvements that will be included in the fee program as well as the level of growth these improvements will serve. A longer time horizon will result in more transportation improvements being included in the RTIF program fee because of the added traffic demands from the increased population and jobs that will occur by that future date. A shorter time horizon typically reduces the number of improvements in the RTIF program fee because it includes only those improvements needed to accommodate a lower level of population and employment growth.

There are two ways that the time interval can be set in an impact fee analysis. One approach is to consider all improvements needed through the “build out” of a community’s General Plan. Another approach is to establish a future date, typically before “build out” occurs, which is consistent with forecast data or improvement cycles. Both techniques are used in impact fee technical reports.

This Technical Report is based on a time horizon that ends in the year 2030. This corresponds to the timeframe used in the Regional Transportation Plan (RTP) which specifies the priority transportation projects in the San Joaquin Region, as approved by SJCOG. The timeframe also corresponds to the household and employment projections available for use in this Report, as further described below.

GROWTH PROJECTIONS

The regional household and employment projections, provided by SJCOG, form the basis for developing growth forecasts by land use category. Specifically, household growth projections are used to estimate future residential development, whereas employment growth projections are used to estimate future retail and commercial/industrial development. The household and employment projections used in this Report are based on standard methodology developed in the 2030 Regional Transportation Plan, which is adopted throughout the San Joaquin Region. **Table 2** summarizes the projection data.

For employment projections, approximately 350 square feet per retail employee and 700 square feet for all other employment categories are assumed to estimate the commercial/industrial development. In addition, an average vacancy rate of 7 percent for retail and commercial/industrial space is also assumed. The allocation of employment into retail and commercial/industrial land use categories is based on the historical employment proportions reported in data approved by the SJCOG.

DWELLING UNIT EQUIVALENTS

This analysis relies on Dwelling Unit Equivalent (DUE) factors to compare and evaluate future development across land use categories. Specifically, DUE factors compare residential, retail, and commercial/industrial land uses to one another based on their vehicle trip generation rates in order to develop a common metric for analysis. The factors used to convert residential, commercial/industrial, and retail growth into DUEs are shown in **Table 3**, and are based on standard assumptions regarding trip generation and trip diversion.¹ The DUE factors are then used to calculate total DUE growth by land use, as shown in **Table 4**.

¹ Assumptions based on data from the Institute of Transportation Engineers (ITE) Trip Generation Model (6th Edition) and the San Diego Council of Governments (SANDAG) Brief Guide to Vehicular Traffic Generation Rates, July 1998.

Table 2
Projected Development by Land Use
San Joaquin RTIF Study; EPS #11212

Category	Year		Total Growth	Avg. Annual Growth
	2005	2030		
Single Family Residential (Units)	165,334	287,943	122,609	2%
Multy-Family Residential (Units)	80,122	111,990	31,868	1.3%
Retail				
Employment	47,347	59,311	11,964	0.9%
Square Feet (1)	15,411,449	19,305,731	3,894,282	0.9%
Commercial/Industrial				
Employment	247,161	272,355	25,194	0.4%
Square Feet (2)	160,901,811	177,303,105	16,401,294	0.4%

(1) Assumes 350 SF per Retail employee, and a 7.0% vacancy rate.

(2) Assumes 700 SF per Commercial / Industrial employee, and a 7.0% vacancy rate.

Table 3
Dwelling Unit Equivalent Calculation Factors
San Joaquin RTIF Nexus Study; EPS #15040

Category	Unit	Pk Hour Trip Rate (1)	% New Trips (2)	DUE
Single Family Residential	DU	1.01	100%	1.00
Multi Family Residential	DU	0.62	100%	0.61
Retail	KSF	3.74	50%	1.85
Commercial				
Office	KSF	1.49	65%	0.96
Industrial	KSF	0.88	85%	<u>0.74</u>
Office/Industrial Avg.				0.85

(1) Peak hour trip rate based on ITE Trip Generation Manual, 6th Edition.

(2) Percent new trips based on SANDAG Brief Guide of Vehicular Traffic Generation Rates

Table 4
Total Dwelling Unit Equivalent Growth
San Joaquin RTIF Nexus Study; EPS #15040

Unit Type	DUE Growth (2005 - 2030)
Single Family Residential	122,609
Multi-Family Residential	19,563
Retail Square Feet	7,210
Commercial/Industrial Square Feet	<u>13,937</u>
Grand Total	163,319

III. RTIF CAPITAL PROJECTS AND COSTS

This chapter documents the transportation improvements included in the RTIF capital project list and their corresponding costs. The RTIF Master Project List was selected based on the inclusion criteria described herein and refined based on funding need. The eligible RTIF capital project list includes all the projects that are assumed to be funded, in full or in part, by RTIF revenue.

RTIF PROJECT INCLUSION CRITERIA

The road and transit projects proposed for funding by the RTIF are included in an initial RTIF Master Project List. The RTIF project list is composed of improvements that fall on the "RTIF Network", a unified system of roadways, transit linkages, and other transportation facilities that confer benefits upon development throughout the County. This network is illustrated in **Figure 1**. The RTIF Network was developed and defined as part of the RTIF planning and policy formulation process.²

While an initial RTIF Master Project List has been established as part of this Technical Report, it is recognized that the list of transportation projects may need to be amended over time as circumstances change. As a result, during the RTIF planning process a number of screening criteria were considered and evaluated as a method for selecting the type of projects that would possibly be funded by RTIF revenue. These screening criteria are designed to distinguish projects where the nexus with new development throughout the San Joaquin Region is strong. It is the adherence to the screening criteria that assures that the required "nexus" findings and other requirements of Government Code Section 66000 et seq. are respected.

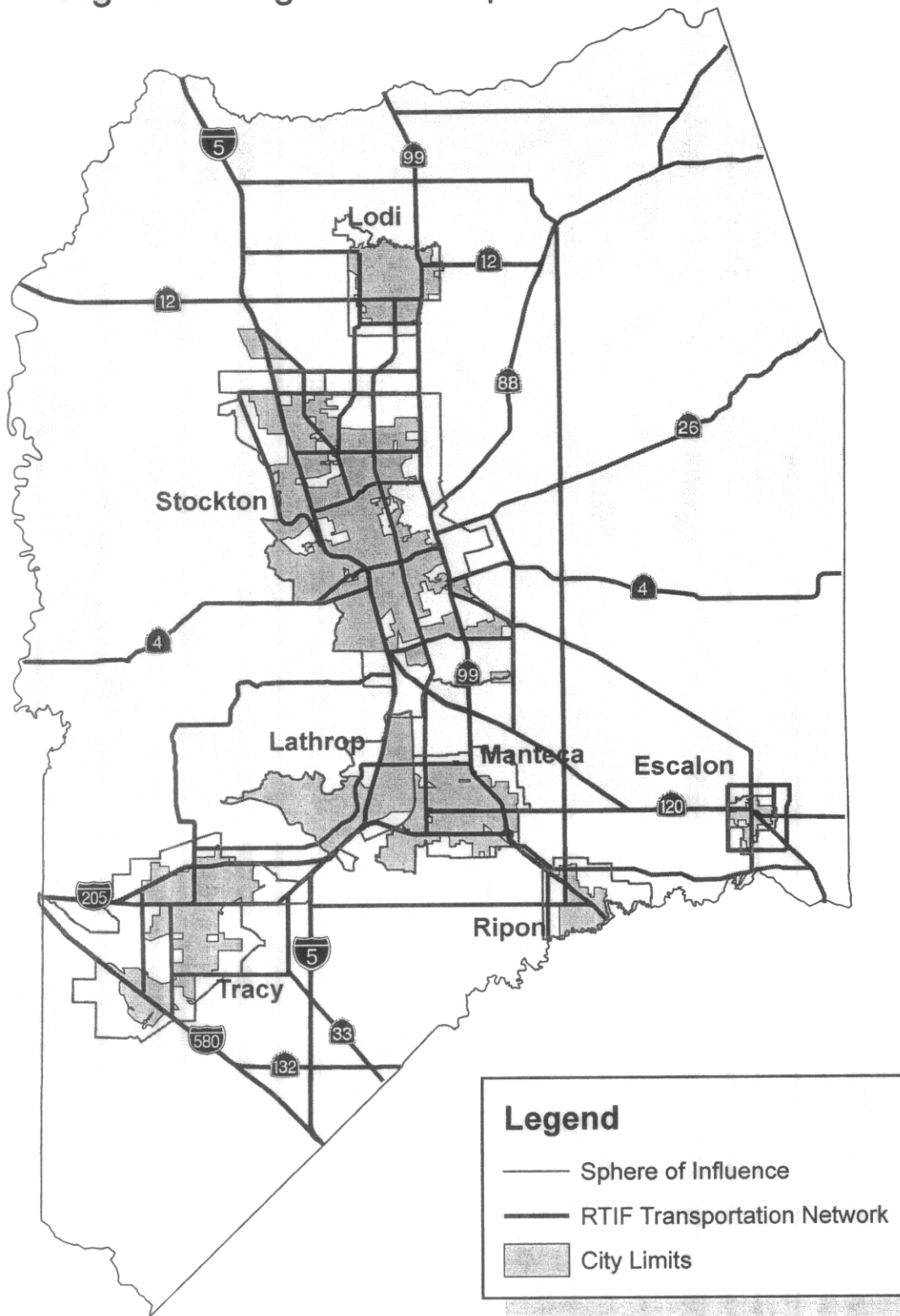
In order to be included in the RTIF Master Project List, Highway Widening, Interchange and Local Roadway Improvement projects must meet all of the following criteria:

- A. All projects must be part of the RTIF Network;
- B. All projects must be scheduled for delivery within the time horizon of the nexus analysis; and³
- C. All projects, except interchange improvements, must involve a capacity improvement of one or more through travel or passing lanes, or auxiliary lanes (i.e., turn lanes).

² The RTIF Network is based on the Congestion Management Program (CMP) network of major facilities of regional significance and supplemented with additional major arterials that serve inter-community travel in San Joaquin County.

³ All RTIF highway widening, interchange, regional roadway, and public transit projects must be identified in the SJCOG Board adopted RTIF project list and Regional Transportation Plan (RTP) prior to delivery. The current time horizon for the RTP is 2005 – 2030.

Figure 1: Regional Transportation Network



In order to be included in the RTIF Master Project List, all Public Transit projects must satisfy the following criteria: ⁴

- A. All projects must be scheduled for delivery within the time horizon of the nexus analysis; and
- B. All projects must involve an improvement to an existing or new service/facility which connects at least two or more cities or regions.

The RTIF nexus fee is based on a combination of highway widening, interchange, and regional roadway projects. The RTIF Master Project List is further refined to ensure that appropriate projects receive necessary funding to complete delivery. These projects were selected from the RTIF Master Project List based on the following:

- A. Currently identified in Tier I of the RTP;
- B. Regional roadway and interchange projects that are in Tier I of the RTP and/or are Measure K Renewal projects; and,
- C. All remaining regional roadway projects which fall on the current SJCOG-Board adopted Regional Transportation Network.

A description of the master and eligible RTIF projects and costs are provided in **Table 5**.

CHANGES TO RTIF MASTER PROJECT LIST

As needs and priorities change over time, on a semi-annual basis, a jurisdiction can exchange any one of their RTIF projects from the RTIF Master Project List with one or more of their projects in Tier I of the RTP. This level of flexibility is intended to help jurisdictions adapt to changes in funding availability and transportation priorities.

However, the following conditions need to be met to secure an exchange:

- RTP meets air quality conformity requirements;
- The projects are categorized in Tier I of the RTP. Tier I RTP projects are priority projects for which funding sources have been identified; and,
- RTIF nexus requirements are maintained.

⁴ Examples of regional transit projects include: (a) capital purchase of rolling stock; (b) bus shelters and associated amenities; and, (c) multi-modal stations and associated amenities.

ALLOCATION OF ELIGIBLE RTIF COSTS

RTIF funds represent one source of funding. These funds, combined with other local, state and federal funds ensure the complete delivery of the RTIF transportation project. Based on the multiple funding mechanisms, the following rationale was used to allocate net RTIF costs to fiscally constrain the projects and establish the nexus:

- A. **RTIF Projects currently in Tier I of the RTP** - RTIF gross project costs were compared to the costs programmed in the RTP. The cost differentials between the RTIF/Tier I RTP projects were offset with net eligible RTIF costs.
- B. **Regional roadway/interchange projects in Tier I of the RTP and/or MK Renewal** - These projects have multiple funding mechanisms and will require RTIF funds to ensure delivery. As part of the nexus, 23 percent of the gross project costs were used not to exceed the eligible RTIF net project costs.
- C. **Remaining regional roadway projects** - Nexus fee includes full RTIF costs attributable to new development for all remaining Regional Roadway Projects which fall on the adopted Regional Transportation Network.

The impact of this cost allocation is summarized in **Table 5**. As shown, there are 120 separate RTIF projects with an estimated total capital cost of about \$5.4 billion. Of the total, 48 RTIF projects with a total cost of \$561 million were selected for purposes of calculating the fee amount. This amount reflects to proportion of the projects for which funding sources have not yet been identified. The cost estimates are based on the best information available at the time of this Report. To the extent that this project list and/or the corresponding cost estimates are updated, the maximum fee amount will change accordingly.

Table 5
RTIF Capital Projects
San Joaquin RTIF Nexus Study; EPS #15040

ID#	Project	Project Description	RTIF Master Project Costs (2)	Nexus Project Costs (3)
Mainline Highway Projections				
1	SR-99	Widen 4 to 6 lanes using inside median, Arch Road to Crosstown/99 interchange		
2	SR-99	Widen 6 to 8 lanes (Outside), City of Manteca (Yosemite Ave) to City of Ripon (West Ripon Road)	\$158,000,000	-
3	I-5	Widen 6 to 8 lanes (Inside) from Monte Diablo Avenue under crossing to Otto Drive. Add aux. Possible HOV lane.	\$203,000,000	-
4	I-5	Widen 6 to 8 lanes (Inside), French Camp Road to Charter Way	\$250,000,000	-
5	I-5	Widen 6 to 8 lanes (Inside), SR 120 to French Camp Road	\$228,000,000	-
6	I-205	Widen 6 to 8 lanes (Inside/Outside) from I-580 to I-5	\$71,000,000	-
7	SR-4 Extension	New alignment from Fresno Ave. to Daggett Road	\$268,000,000	-
8	SR-99 Widening	Widen 6 to 8 lanes (Outside), Cherokee Road to Armstrong Road	\$150,000,000	\$19,843,070
9	SR-99	Widen 6 to 8 lanes (Outside), Crosstown to Cherokee Road	\$100,000,000	-
10	SR-99	Widen 6 to 8 lanes (Outside), Arch to Crosstown	\$194,000,000	-
11	SR-99 Widening	Widen 4 to 8 lanes (Outside), French Camp Road to Arch Road	\$86,000,000	-
12	I-5	Widen 6 to 8 lanes (Inside), Otto Drive to New Road A (One mile N. of Eight Mile Road)	\$100,000,000	-
13	SR-99 Widening	Widen 8 to 10 lanes (Outside), Mariposa Road to Cherokee Road	\$25,000,000	-
14	SR-4 Crosstown Widening	Widen 6 to 8 lanes, I-5 to SR-99	\$150,000,000	-
15	SR-26 Widening	Widen 6 to 8 lanes, SR-99 to Austin Road Extension	\$75,000,000	-
16	SR-4 Widening	Widen 6 to 8 lanes, SR-99 to Austin Road Extension	\$30,000,000	-
17	SR 99 @ Crosstown Freeway	Reconstruct Freeway to Freeway Interchange	\$30,000,000	-
18	I-5/SR 4 @ Crosstown Freeway	Reconstruct Freeway to Freeway Interchange	\$30,000,000	-
19	I-5/SR-120	New branch connections (2 Lane Structures). SR-120 West to I-5 North, and I-5 South to SR-120 East	\$59,000,000	-
20	SR-120	Widen 4 to 6 lanes (Inside) from I-5 to SR-99	\$35,500,000	\$6,640,000
21	SR-12	Widen 2 to 4 lanes (Outside), add turn lanes, from SR-99 to SR-88	\$54,000,000	-
22	SR-99	New capacity ~ widen 4 to 6 lanes (Inside), from Jct. 12 East to County line.	\$50,500,000	\$31,480,000
23	SR-99	New capacity ~ widen 4 to 6 lanes (Inside), from north of Harney to SR-12 East	\$86,000,000	-
24	I-5	Widen 4 to 6 lanes (Inside), SR-12 to County Line	\$11,250,000	-
25	I-5 Widening	Widen 8 to 10 lanes, Roth Road to Otto Drive	\$91,000,000	-
26	SR-12 @ I-5	Loop Ramps	\$400,000,000	-
27	SR-99 @ SR-88	Reconstruct interchange	\$11,250,000	-
28	SR-99 @ SR-26	Reconstruct interchange	\$19,500,000	-
29	SR-26	New capacity ~ widen 2 to 4 lanes (Outside), Cardinal (diverting canal) to Jack Tone Road	\$19,500,000	-
30	SR-120 West of Escalon	Widen from Jacktone 5 lane conventional to Sexton, new south alignment to McHenry	\$48,000,000	-
31	SR-120 East of Escalon	New south alignment from McHenry to existing 120 @ Harrold, widen to 5 lane conventional to county line	\$75,000,000	-
32	SR-88	Passing lanes, SR-12 to Amador County Line	\$25,000,000	-
			\$24,000,000	-
Total Mainline Highway Projections			\$3,157,500,000	\$57,963,070
Interchange Modifications, Reconstructions, and Improvements				
33	I-5 @ Lathrop Road	4 lanes under I-5, modify interchange 0.3 miles north and south of Lathrop Road undercrossing		
34	I-205 @ Paradise/Chrisman	Construction of new interchange	\$17,200,000	\$3,956,000
35	SR-99 @ SR-12 (Kettleman Lane)	Reconstruct interchange	\$40,000,000	\$20,800,000
36	SR-99 @ Harney Lane	Reconstruct interchange	\$20,000,000	\$4,600,000
37	SR-99 @ North Main	Construct new interchange	\$20,000,000	-
38	SR-99 @ Austin Road	Reconstruct/Improve Interchange	\$8,900,000	-
			\$30,000,000	\$6,900,000

Table 5
RTIF Capital Projects
San Joaquin RTIF Nexus Study; EPS #15040

ID#	Project	Project Description	RTIF Master Project Costs (2)	Nexus Project Costs (3)
39	SR-120 @ McKinley	Reconstruct/Improve Interchange	\$28,200,000	\$6,486,000
40	SR-99 @ Olive Rd.	Construct Interchange to include connection with River Road	\$40,000,000	\$15,760,000
41	SR-99 @ Eight Mile Road	Reconstruct Interchange (PM 35.1-35.5)	\$36,120,000	\$8,307,600
42	SR-99 @ March Lane/Wilson	New interchange - Construct combined Wilson Way, March Lane Interchange (P.M. 21.1-22.1)	\$100,000,000	\$23,000,000
43	I-5 @ Arch Sperry/French Camp	Modify existing I-5/French Camp Road Interchange (P.M. 20.8-21.2)	\$35,000,000	\$8,050,000
44	SR-99 @ French Camp Road	Reconstruct interchange	\$35,000,000	-
45	SR-99 @ Arch Sperry Road	Phase 2 interchange improvements	\$15,000,000	-
46	SR-99 @ Armstrong Road	Reconstruct interchange	\$35,000,000	-
47	I-5 @ New Road A (N. Gateway)	Construction of new interchange	\$35,000,000	-
48	SR-99 @ New Road A (N. Gateway)	Construction of new interchange	\$35,000,000	-
49	SR-99 @ Morada Lane	Reconstruct interchange	\$35,000,000	\$1,000,000
50	I-5 @ Eight Mile Road	Interchange Modification	\$17,000,000	\$3,910,000
51	I-5 @ Otto Drive	Construction of new interchange	\$42,000,000	\$9,660,000
52	I-5 @ Hammer Lane	Interchange Modification	\$47,000,000	\$10,810,000
53	SR-99 @ Mariposa Road	Reconstruct interchange	\$40,000,000	\$9,200,000
54	SR-99 @ New Road	Construction of new interchange between French Camp Road and Arch-Sperry Road	\$35,000,000	-
55	I-5 @ Matthews Road	Reconstruct interchange	\$35,000,000	-
56	I-5 @ Roth Road	Reconstruct interchange	\$35,000,000	-
57	SR-132 @ I-5 and Bird Road	Upgrade interchange, lengthen ramps, widen approaches, install signal controls	\$10,000,000	-
58	I-580 @ Lammers Road	Construction of new interchange	\$55,000,000	-
59	I-580 @ Coral Hollow Road	Modification of existing interchange	\$20,000,000	-
60	I-205 @ Lammers Road	Construction of new interchange	\$55,000,000	\$12,650,000
61	I-205 @ Grantline Road	Modification of existing interchange	\$30,000,000	\$6,900,000
Total Interchange Modifications, Reconstructions, and Improvements			\$986,420,000	\$151,989,600
Regional Roadway Improvements				
62	Lower Sacramento Road	Widen from 2 to 6 lanes, Eight Mile Road to Marada Lane	\$20,000,000	\$5,000,000
63	Lower Sacramento Road	Widen from 2 to 4 lanes, Armstrong Road to Eight Mile Road	\$10,000,000	-
64	Eight Mile Rd.	Widen from 2 to 8 lanes, I-5 to SR-99. Project involves 2 railroad grade separations.	\$50,000,000	\$11,500,000
65	Pacific Avenue	Widen from 6 to 8 lanes, Hammer Lane to March Lane	\$30,000,000	\$6,900,000
66	March Lane	Widen from 6 to 8 lanes, Claremont to West Lane	\$9,262,000	\$8,162,000
67	March Lane	Construct 8 lane Road from Holman to SR-99	\$25,000,000	\$5,000,000
68	West Lane	Widen from 4 to 6 lanes, Armstrong Road to Eight Mile Road	\$10,000,000	\$9,780,000
69	West Lane	Widen from 4 to 6 In.SPRR s/o Alpine-Calaveras River	\$44,200,000	\$43,669,600
70	West Lane	Widen from 6 to 8 lanes, Eight Mile Road to Alpine Avenue	\$35,000,000	\$33,390,000
71	West Lane/Airport Way	Widen from 4 to 6 lanes, Alpine Avenue to Arch Sperry Road	\$60,000,000	\$55,920,000
72	Airport Way	Widen from 2 to 6 lanes, French Camp Road to Roth Road	\$15,000,000	\$12,435,000
73	Airport Way	Widen from 4 to 8 lanes, Arch/Sperry Road to French Camp Road	\$20,000,000	\$15,960,000
74	New Road A	Construct 4 lanes, I-5 to SR-99. Project involves 2 railroad grade separations.	\$25,000,000	-
75	Thornton Road	Widen from 2 to 6 lanes, Bear Creek to Hammer Lane	\$20,000,000	\$4,600,000
76	Aksland Avenue	Construct 4 lanes, Otto Drive to March Lane	\$10,000,000	\$3,000,000
77	Ryde Avenue Bridge	Construct 4 lane bridge over the Calaveras River	\$5,000,000	-
78	Mariposa Road	Widen from 2 to 8 lanes, SR-99 to Austin Road	\$30,000,000	-

Table 5
RTIF Capital Projects
San Joaquin RTIF Nexus Study; EPS #15040

ID#	Project	Project Description	RTIF Master Project Costs (2)	Nexus Project Costs (3)
79	Austin Road	Construct 6 lanes, SR-26 to Main Street	\$10,000,000	-
80	Austin Road	Construct 8 lanes, Main Street to Mariposa Road	\$60,000,000	-
81	Austin Road	Construct 6 lanes, Mariposa Road to Arch Road	\$5,000,000	-
82	Austin Road	Construct 4 lanes, Arch Road to French Camp Road	\$20,000,000	-
83	Arch-Sperry Rd.	Construct 2 to 8 lanes, I-5 to Performance Drive	\$65,000,000	\$14,950,000
84	Arch-Sperry Rd.	Construct 2 to 8 lanes, Performance Drive to Frontier Way	\$35,000,000	\$22,595,000
85	Arch-Sperry Rd.	Widen from 2 to 6 lanes, Frontier Way to Austin Road	\$10,000,000	\$5,690,000
86	French Camp Road	Widen from 2 to 6 lanes, SR-99 to Arch-Sperry Road	\$40,000,000	-
87	Harney Ln.	Widen from 2 to 4 lanes, SR-99 to Lower Sacramento Road (2.6 Miles)	\$12,250,000	\$2,817,500
88	Jack Tone Rd.	Widen from 2 to 4 lanes entire length (SR-99 to SR-88)	\$27,000,000	\$6,210,000
89	Liberty Road	Widen from 2 to 4 lanes, SR-99 to SR-88	\$24,974,000	-
90	Peltier Road	Widen from 2 to 4 lanes, SR-99 to I-5	\$15,500,000	-
91	Peltier Road	Widen from 2 to 4 lanes, SR-99 to Elliott Road	\$25,573,000	-
92	Elliott Road	Widen from 2 to 4 lanes, SR-88 to Peltier Road	\$12,900,000	-
93	Yosemite Ave	Widen from 2 to 4 lanes, City limit to North Ripon Rd. 3.05 miles.	\$4,758,000	-
94	Mariposa Road	Widen from 2 to 4 lanes, Austin Road to Jack Tone Road	\$17,352,000	-
95	Mariposa Road	Widen from 2 to 4 lanes, Jack Tone Road to Escalon-Belota Road	\$20,063,000	-
96	French Camp Road	Widen from 2 to 4 lanes, SR-99 to SR-120	\$26,084,000	-
97	Tracy Boulevard	Passing lanes and channelization	\$21,202,000	-
98	Howard Road	Passing lanes and channelization	\$23,935,000	-
99	Airport Way	Widen from 4 to 6 lanes, Lathrop Road to Roth Road.	\$9,293,000	\$2,137,390
100	Escalon-Belota Road	Widen from 2 to 4 lanes, Mariposa Road to Escalon City limit	\$4,009,000	\$1,519,411
101	Airport Way	Widen from 2 to 4 lanes, Yosemite to SR-120	\$1,153,000	\$937,389
102	Airport Way	Widen from 4 to 6 lanes, SR120-Lathrop Road (Manteca)	\$4,900,000	\$4,209,100
103	Lathrop Rd.	Widen from 2 to 4 lanes from east of UPRR to SR-99	\$6,855,000	-
104	Golden Valley Parkway	Parallel facility along north/west side of I-5 from Lathrop Road to Paradise	\$59,290,000	\$40,910,100
105	Lathrop Rd.	Widen from 2 to 4 lanes, I-5 to east UPRR	\$2,560,000	-
106	Corral Hollow Road	Widen from 2 to 4 lanes, Grantline Road to Linne Road	\$20,000,000	-
107	Lammers Road	Widen from 2 to 4 Lanes, I-205 to I-580	\$40,000,000	-
108	Linne Road	Widen from 2 to 4 lanes, Corral Hollow Road to Chrisman Road	\$4,289,000	\$2,835,029
109	McHenry @ Ullrey Intersection	Intersection Improvement	\$800,000	\$499,200
110	Campbell Avenue	Widen from 2 to 4 lanes, From SR 120 north to Miller Road and east from Miller Road to Escalon-Belota Road	\$2,500,000	\$1,257,500
111	Campbell Avenue	Widen from 2 to 4 lanes, From Miller Road to Santa Fe Avenue.	\$2,500,000	-
112	Brennan Road	Widen from 2 to 4 lanes, SR 120 south to Jones Road and east from Jones Road to McHenry Avenue	\$2,500,000	-
113	Miller Road	Widen from 2 to 4 lanes, Escalon-Bellota Avenue to Campbell Avenue	\$1,123,005	-
114	South Arterial #1	Widen from 2 to 4 lanes, Brennan Avenue to Harrold Avenue	\$5,054,790	-
115	Jones Road	Widen from 2 to 4 lanes, Brennan Road to Harrold Avenue	\$2,000,115	-
	River Road Plus Extension	Widen from 2 to 4 Lanes From McHenry Avenue to SR 120. Includes Parallel Facility to SR 99 North to SR 120	\$25,000,000	-
116		with extension of Olive Road south to SJC line. May include roundabout (River Road @ McHenry).		-
117	West Ripon Road (1)	Widen existing road from 2 to 4 lanes and extend Ripon Road West to I-5	\$50,000,000	-
Total Regional Roadway Improvements			\$1,138,879,910	\$321,884,219

Table 5
RTIF Capital Projects
San Joaquin RTIF Nexus Study; EPS #15040

ID#	Project	Project Description	RTIF Master Project Costs (2)	Nexus Project Costs (3)
Public Transit				
118	Bus Rapid Transit (BRT)	Regional/Inter-Regional BRT system	\$100,412,410	\$19,931,535
119	Regional Busses	Purchase of buses for service expansion (Intercity/Interregional)	\$10,000,000	\$2,100,000
120	Altamont Commuter Express (ACE)	Acquisition of ACE Corridor between Lathrop and Niles Junction	\$45,000,000	\$6,950,000
Total Public Transit			\$155,412,410	\$28,981,535
TOTAL ALL PROJECTS			\$5,438,212,320	\$560,818,424

- (1) Project delivery is contingent on the results of a feasibility study and pending analysis of the region's expressway needs.
(2) Represent all projects in the RTIF network. All projects are selected based on Inclusion Criteria.
(3) Represents RTIF projects/costs used to establish nexus.

IV. RTIF MODEL AND FEE CALCULATION

This chapter describes the modeling techniques used to identify eligible transportation projects and calculate the fee for the RTIF program. The fee is based on the RTIF capital project list costs attributable to new growth within the San Joaquin Region divided by projected development by land use category in the region.

TRANSPORTATION MODEL

This Technical Report relies on the SJCOG travel demand model, a regional model used to conduct long-range planning and assess transportation impacts of major development projects in the County. The model has recently been updated, and was used in preparing the 2030 RTP. Therefore, the model is the best tool available for conducting a project such as the RTIF Report. The SJCOG model contains land use estimates for the year 2005, and projections for the year 2030. Both the 2005 and 2030 models were used in the RTIF Report.

EXISTING DEFICIENCIES

As noted in **Chapter III**, the RTIF program excludes the proportion of a project cost that are attributable in whole or in part to correct “existing deficiencies” or pre-existing problems in the regional transportation system. Consequently, the transportation model was used to identify existing deficiencies in the RTIF Network. Specifically, the 2005 model was applied, and the Level of Service (LOS) of each facility in the network was assessed. Traffic volume thresholds for LOS calculation purposes were provided by SJCOG staff. These thresholds were based on the standard highway capacity tables prepared by the Florida Department of Transportation, and have been used in the preparation of the 2030 SJCOG RTP and other regional planning documents.

The operational standard for roads in the San Joaquin Region is LOS D. Therefore, all facilities that were estimated to operate at LOS E or F during the AM peak hour in the 2005 model were designated as having existing deficiencies. Any improvements designed to correct the deficiencies in the RTIF Network have been adjusted to exclude the portion that is attributable to existing deficiencies.

Because of limitations in the analytical methods available, no existing deficiency analysis was conducted for interchange; rather, it was assumed that these improvements were to be supported entirely by new development.

TRAFFIC CONTRIBUTION

The total amount of traffic on each facility is broken down into two components: the traffic coming from or going to areas inside the San Joaquin Region (called “Internal Trips”) and the traffic coming from or going to areas outside the Region (called

“External Trips”). These External Trips are not the responsibility of the new development within San Joaquin Region, and thus need to be excluded from the fee calculation. This analysis was done on the basis of trip ends; therefore, the so-called I-X and X-I trips (trips that have one end in the region and one end outside the region) were considered to be one-half attributable to Internal Trips, and one-half attributable to External Trips.

The difference in total traffic volume on each project between 2005 and 2030 was calculated, and became the denominator of the traffic contribution ratio. The difference in volume associated with each of the categories described above was also calculated, and these became the numerators of the calculation. For example, if total traffic on a particular facility increased by 1,000 vehicles between 2005 and 2030, and if the traffic attributable to the San Joaquin Region area increased by 200 vehicles, then the percent contribution to that facility within the region would be $200/1,000$ or 20 percent. The remaining 80 percent of the growth in traffic would be similarly calculated from the External Trips.

The trip distribution between inside and outside of the San Joaquin Region for all the RTIF projects is shown in **Table 6**. The values in Internal and External Trips should sum to 1.0, or 100 percent, for each RTIF project. With the External Trips screened out, **Table 7** also shows the net RTIF project costs by multiplying the Internal Trips factors by the total project costs.

PUBLIC TRANSIT CONTRIBUTION

The total share of the public transit costs is determined by new development within the San Joaquin Region. Specifically, the total public transit share is calculated by multiplying the incremental DUE growth as a percent of the total DUE in 2030. Between 2005 and 2030, the DUE in the San Joaquin Region is estimated to increase by 163,319, as illustrated in **Table 4**. The new growth would contribute approximately 30 percent of the total DUE in 2030. As shown in **Table 6**, \$8.7 million of the public transit costs is supported by the RTIF program.

MAXIMUM FEE CALCULATION

The maximum fee calculation is based on the net RTIF capital project costs attributable to the Internal Trips throughout the region divided by the projected number of new housing units, retail and commercial/industrial square feet developed in the County through year 2030. Specifically, the net RTIF capital project cost is divided by the total DUE growth, as calculated in **Table 4**, to obtain total cost per DUE for the San Joaquin Region as a whole.

A summary of the RTIF per DUE by project and for the San Joaquin Region as a whole is provided in **Table 7**. The actual fees by land use category are derived based on the DUE factors shown in **Table 3** (total fee per DUE multiplied by the DUE factor by land use category).

Table 6

**RTIF Trip Distribution and Net Project Costs
San Joaquin RTIF Nexus Study; EPS #15040**

ID#	Project	Trip Distribution		Net Nexus Project Costs
		Internal Trips	External Trips	
Mainline Highway Projections				
1	SR-99	48.3%	51.7%	-
2	SR-99	31.3%	68.7%	-
3	I-5	54.1%	45.9%	-
4	I-5	59.9%	40.1%	-
5	I-5	61.3%	38.7%	-
6	I-205	46.4%	53.6%	-
7	SR-4 Extension	43.5%	56.5%	\$7,708,140
8	SR-99 Widening	54.1%	45.9%	-
9	SR-99	57.8%	42.2%	-
10	SR-99	48.3%	51.7%	-
11	SR-99 Widening	42.6%	57.4%	-
12	I-5	47.2%	52.8%	-
13	SR-99 Widening	54.8%	45.2%	-
14	SR-4 Crosstown Widening	60.0%	40.0%	-
15	SR-26 Widening	60.7%	39.3%	-
16	SR-4 Widening	48.6%	51.4%	-
17	SR 99 @ Crosstown Freeway	62.5%	37.5%	-
18	I-5/SR 4 @ Crosstown Freeway	65.5%	34.5%	-
19	I-5/SR-120	33.2%	66.8%	\$2,204,480
20	SR-120	29.1%	70.9%	-
21	SR-12	78.7%	21.3%	\$24,774,760
22	SR-99	41.3%	58.7%	-
23	SR-99	48.0%	52.0%	-
24	I-5	45.2%	54.8%	-
25	I-5 Widening	58.1%	41.9%	-
26	SR-12 @ I-5	46.1%	53.9%	-
27	SR-99 @ SR-88	65.8%	34.2%	-
28	SR-99 @ SR-26	69.1%	30.9%	-
29	SR-26	57.0%	43.0%	-
30	SR-120 West of Escalon	30.6%	69.4%	-
31	SR-120 East of Escalon	26.7%	73.3%	-
32	SR-88	45.5%	54.5%	-
Interchange Modifications, Reconstructions, and Improvements				
33	I-5 @ Lathrop Road	70.5%	29.5%	\$2,788,980
34	I-205 @ Paradise/Chrisman	62.3%	37.7%	\$12,958,400
35	SR-99 @ SR-12 (Kettleman Lane)	86.0%	14.0%	\$3,956,000
36	SR-99 @ Harney Lane	86.9%	13.1%	-
37	SR-99 @ North Main	82.5%	17.5%	-
38	SR-99 @ Austin Road	67.7%	32.3%	\$4,671,300
39	SR-120 @ McKinley	77.5%	22.5%	\$5,026,650
40	SR-99 @ Olive Rd.	40.2%	59.8%	\$6,335,520
41	SR-99 @ Eight Mile Road	64.2%	35.8%	\$5,333,479
42	SR-99 @ March Lane/Wilson	73.0%	27.0%	\$16,790,000
43	I-5 @ Arch Sperry/French Camp	56.8%	43.2%	\$4,572,400
44	SR-99 @ French Camp Road	48.7%	51.3%	-
45	SR-99 @ Arch Sperry Road	57.5%	42.5%	-

Table 6

**RTIF Trip Distribution and Net Project Costs
San Joaquin RTIF Nexus Study; EPS #15040**

ID#	Project	Trip Distribution		Net Nexus Project Costs
		Internal Trips	External Trips	
46	SR-99 @ Armstrong Road	89.2%	10.8%	-
47	I-5 @ New Road A (N. Gateway)	97.6%	2.4%	-
48	SR-99 @ New Road A (N. Gateway)	71.5%	28.5%	-
49	SR-99 @ Marada Lane	65.4%	34.6%	\$654,000
50	I-5 @ Eight Mile Road	67.2%	32.8%	\$2,627,520
51	I-5 @ Otto Drive	65.9%	34.1%	\$6,365,940
52	I-5 @ Hammer Lane	91.1%	8.9%	\$9,847,910
53	SR-99 @ Mariposa Road	59.3%	40.7%	\$5,455,600
54	SR-99 @ New Road	60.8%	39.2%	-
55	I-5 @ Matthews Road	72.5%	27.5%	-
56	I-5 @ Roth Road	70.2%	29.8%	-
57	SR-132 @ I-5 and Bird Road	44.7%	55.3%	-
58	I-580 @ Lammers Road	50.5%	49.5%	-
59	I-580 @ Coral Hollow Road	36.5%	63.5%	-
60	I-205 @ Lammers Road	58.5%	41.5%	\$7,400,250
61	I-205 @ Grantline Road	70.8%	29.2%	\$4,885,200
Regional Roadway Improvements				
62	Lower Sacramento Road	83.2%	16.8%	\$4,160,000
63	Lower Sacramento Road	93.8%	6.2%	-
64	Eight Mile Rd.	69.5%	30.5%	\$7,992,500
65	Pacific Avenue	95.2%	4.8%	\$6,568,800
66	March Lane	93.2%	6.8%	\$7,606,984
67	March Lane	85.0%	15.0%	\$4,250,000
68	West Lane	96.1%	3.9%	\$9,398,580
69	West Lane	98.8%	1.2%	\$43,145,565
70	West Lane	94.9%	5.1%	\$31,687,110
71	West Lane/Airport Way	93.4%	6.6%	\$52,229,280
72	Airport Way	85.0%	15.0%	\$10,569,750
73	Airport Way	79.3%	20.7%	\$12,656,280
74	New Road A	67.9%	32.1%	-
75	Thornton Road	77.8%	22.2%	\$3,578,800
76	Aksland Avenue	87.0%	13.0%	\$2,610,000
77	Ryde Avenue Bridge	96.4%	3.6%	-
78	Mariposa Road	57.3%	42.7%	-
79	Austin Road	53.7%	46.3%	-
80	Austin Road	68.6%	31.4%	-
81	Austin Road	62.4%	37.6%	-
82	Austin Road	65.0%	35.0%	-
83	Arch-Sperry Rd.	61.4%	38.6%	\$9,179,300
84	Arch-Sperry Rd.	63.3%	36.7%	\$14,302,635
85	Arch-Sperry Rd.	64.0%	36.0%	\$3,641,600
86	French Camp Road	45.7%	54.3%	-
87	Harney Ln.	89.9%	10.1%	\$2,532,933
88	Jack Tone Rd.	55.3%	44.7%	\$3,434,130
89	Liberty Road	17.5%	82.5%	-
90	Peltier Road	39.2%	60.8%	-
91	Peltier Road	38.8%	61.2%	-

Table 6

**RTIF Trip Distribution and Net Project Costs
San Joaquin RTIF Nexus Study; EPS #15040**

ID#	Project	Trip Distribution		Net Nexus Project Costs
		Internal Trips	External Trips	
92	Elliott Road	52.2%	47.8%	-
93	Yosemite Ave	29.3%	70.7%	-
94	Mariposa Road	53.4%	46.6%	-
95	Mariposa Road	49.6%	50.4%	-
96	French Camp Road	52.1%	47.9%	-
97	Tracy Boulevard	47.0%	53.0%	-
98	Howard Road	55.5%	44.5%	-
99	Airport Way	80.6%	19.4%	\$1,722,736
100	Escalon-Belota Road	37.1%	62.9%	\$563,701
101	Airport Way	81.5%	18.5%	\$763,972
102	Airport Way	85.1%	14.9%	\$3,581,944
103	Lathrop Rd.	66.0%	34.0%	-
104	Golden Valley Parkway	68.7%	31.3%	\$28,105,239
105	Lathrop Rd.	69.0%	31.0%	-
106	Corral Hollow Road	74.1%	25.9%	-
107	Lammers Road	59.3%	40.7%	-
108	Linne Road	67.5%	32.5%	\$1,913,645
109	McHenry @ Ullrey Intersection	62.7%	37.3%	\$312,998
110	Campbell Avenue	51.7%	48.3%	\$650,128
111	Campbell Avenue	59.2%	40.8%	-
112	Brennan Road	37.6%	62.4%	-
113	Miller Road	50.1%	49.9%	-
114	South Arterial #1	52.4%	47.6%	-
115	Jones Road	52.4%	47.6%	-
116	River Road Plus Extension	14.9%	85.1%	-
117	West Ripon Road (1)	68.2%	31.8%	-
Public Transit (2)				
118	Bus Rapid Transit (BRT)	n/a	n/a	\$5,993,758
119	Regional Busses	n/a	n/a	\$631,506
120	Altamont Commuter Express (ACE)	n/a	n/a	\$2,089,985
Total				\$410,230,388

(1) Project delivery is contingent on the results of a feasibility study and pending analysis of the region's expressway needs.

(2) All public transit costs based on the incremental DUE growth as 30% of the total DUE in 2030.

Table 7

RTIF Fee Calculation

San Joaquin RTIF Nexus Study; EPS #15040

ID#	Project	Cost Per DUE (1)
Mainline Highway Projections		
1	SR-99	-
2	SR-99	-
3	I-5	-
4	I-5	-
5	I-5	-
6	I-205	\$47.20
7	SR-4 Extension	-
8	SR-99 Widening	-
9	SR-99	-
10	SR-99	-
11	SR-99 Widening	-
12	I-5	-
13	SR-99 Widening	-
14	SR-4 Crosstown Widening	-
15	SR-26 Widening	-
16	SR-4 Widening	-
17	SR 99 @ Crosstown Freeway	-
18	I-5/SR 4 @ Crosstown Freeway	\$13.50
19	I-5/SR-120	-
20	SR-120	\$151.70
21	SR-12	-
22	SR-99	-
23	SR-99	-
24	I-5	-
25	I-5 Widening	-
26	SR-12 @ I-5	-
27	SR-99 @ SR-88	-
28	SR-99 @ SR-26	-
29	SR-26	-
30	SR-120 West of Escalon	-
31	SR-120 East of Escalon	-
32	SR-88	-
Interchange Modifications, Reconstructions, and Improvements		\$17.08
33	I-5 @ Lathrop Road	\$79.34
34	I-205 @ Paradise/Chrisman	\$24.22
35	SR-99 @ SR-12 (Kettleman Lane)	-
36	SR-99 @ Harney Lane	-
37	SR-99 @ North Main	\$28.60
38	SR-99 @ Austin Road	\$30.78
39	SR-120 @ McKinley	\$38.79
40	SR-99 @ Olive Rd.	\$32.66
41	SR-99 @ Eight Mile Road	\$102.81
42	SR-99 @ March Lane/Wilson	\$28.00
43	I-5 @ Arch Sperry/French Camp	-
44	SR-99 @ French Camp Road	-
45	SR-99 @ Arch Sperry Road	-
46	SR-99 @ Armstrong Road	-

Table 7

RTIF Fee Calculation

San Joaquin RTIF Nexus Study; EPS #15040

ID#	Project	Cost Per DUE (1)
47	I-5 @ New Road A (N. Gateway)	-
48	SR-99 @ New Road A (N. Gateway)	-
49	SR-99 @ Marada Lane	\$4.00
50	I-5 @ Eight Mile Road	\$16.09
51	I-5 @ Otto Drive	\$38.98
52	I-5 @ Hammer Lane	\$60.30
53	SR-99 @ Mariposa Road	\$33.40
54	SR-99 @ New Road	-
55	I-5 @ Matthews Road	-
56	I-5 @ Roth Road	-
57	SR-132 @ I-5 and Bird Road	-
58	I-580 @ Lammers Road	-
59	I-580 @ Coral Hollow Road	-
60	I-205 @ Lammers Road	\$45.31
61	I-205 @ Grantline Road	\$29.91
Regional Roadway Improvements		
62	Lower Sacramento Road	\$25.47
63	Lower Sacramento Road	-
64	Eight Mile Rd.	\$48.94
65	Pacific Avenue	\$40.22
66	March Lane	\$46.58
67	March Lane	\$26.02
68	West Lane	\$57.55
69	West Lane	\$264.18
70	West Lane	\$194.02
71	West Lane/Airport Way	\$319.80
72	Airport Way	\$64.72
73	Airport Way	\$77.49
74	New Road A	-
75	Thornton Road	\$21.91
76	Aksland Avenue	\$15.98
77	Ryde Avenue Bridge	-
78	Mariposa Road	-
79	Austin Road	-
80	Austin Road	-
81	Austin Road	-
82	Austin Road	-
83	Arch-Sperry Rd.	\$56.20
84	Arch-Sperry Rd.	\$87.57
85	Arch-Sperry Rd.	\$22.30
86	French Camp Road	-
87	Harney Ln.	\$15.51
88	Jack Tone Rd.	\$21.03
89	Liberty Road	-
90	Peltier Road	-
91	Peltier Road	-
92	Elliott Road	-
93	Yosemite Ave	-

Table 7
RTIF Fee Calculation
San Joaquin RTIF Nexus Study; EPS #15040

ID#	Project	Cost Per DUE (1)
94	Mariposa Road	-
95	Mariposa Road	-
96	French Camp Road	-
97	Tracy Boulevard	-
98	Howard Road	-
99	Airport Way	\$10.55
100	Escalon-Belota Road	\$3.45
101	Airport Way	\$4.68
102	Airport Way	\$21.93
103	Lathrop Rd.	-
104	Golden Valley Parkway	\$172.09
105	Lathrop Rd.	-
106	Corral Hollow Road	-
107	Lammers Road	-
108	Linne Road	\$11.72
109	McHenry @ Ullrey Intersection	\$1.92
110	Campbell Avenue	\$3.98
111	Campbell Avenue	-
112	Brennan Road	-
113	Miller Road	-
114	South Arterial #1	-
115	Jones Road	-
116	River Road Plus Extension	-
117	West Ripon Road (2)	-
Public Transit		
118	Bus Rapid Transit (BRT)	\$36.70
119	Regional Busses	\$3.87
120	Altamont Commuter Express (ACE)	\$12.80
Total		\$2,511.84

(1) Net RTIF project cost divided by total DUE of 163,319

(2) Project delivery is contingent on the results of a feasibility study and pending analysis of the region's expressway needs.



REGIONAL TRANSPORTATION IMPACT FEE



October 27, 2005

**SAN JOAQUIN COUNTY
REGIONAL TRANSPORTATION IMPACT FEE PROGRAM
OPERATING AGREEMENT**

THIS REGIONAL TRANSPORTATION IMPACT FEE PROGRAM OPERATING AGREEMENT (“Agreement”) dated as of the Effective Date is made by and between the San Joaquin Council of Governments (“SJCOG”), and the following eight public agencies located within San Joaquin County (collectively the “Participating Agencies”), including, the County of San Joaquin (“County”), the City of Escalon (“Escalon”), the City of Manteca (“Manteca”), the City of Lathrop (“Lathrop”), the City of Lodi (“Lodi”) the City of Ripon (“Ripon”) the City of Stockton (“Stockton”), and the City of Tracy (“Tracy”) (the identified cities are hereinafter collectively the “Cities”).

RECITALS

WHEREAS, SJCOG has the responsibility as the region’s designated Metropolitan Planning Organization and through its powers as specified in its joint powers agreement to maintain and improve the Regional Transportation Network, and

WHEREAS, the Participating Agencies and SJCOG find that future development within the County of San Joaquin will result in traffic volumes in excess of capacity on a regional system of highways, interchanges, and local roadways; and,

WHEREAS, the Participating Agencies and SJCOG find that failure to expand the capacity of the existing circulation system will cause unacceptable levels of congestion on the Regional Transportation Network; and,

WHEREAS, the Participating Agencies and SJCOG find that existing and future sources of revenue are inadequate to fund substantial portions of the Regional Transportation Network improvements needed to avoid unacceptable levels of congestion and related adverse impacts; and,

WHEREAS, SJCOG, following extensive analysis and consultations with the Participating Agencies and other stakeholders, has prepared a Regional Transportation Impact Program Fee Technical Report (“RTIF Technical Report”) that establishes a nexus between new development and its impacts (increased travel demand, reductions in service levels, and the need for capital improvements) upon the Regional Transportation Network; and,

WHEREAS, the Participating Agencies and SJCOG find and declare that the RTIF Technical Report has determined the extent to which new development of land will generate traffic volumes impacting the Regional Transportation Network and have determined that the Regional Transportation Impact Fee Program (“RTIF Program”) establishes a fair and equitable method to fund costs of transportation improvements necessary to accommodate the traffic volumes generated by future development of land within each City and the County; and,

WHEREAS, the Participating Agencies and SJCOG find and declare that the RTIF Program is necessary to help mitigate the impact of new development on the Regional Transportation Network and along with other transportation funding mechanisms, in providing for the construction of improvements to accommodate traffic generated by land development; and,

WHEREAS, the Participating Agencies and SJCOG have determined that it is in their best interest to join together to administer the funds provided by the RTIF Program and to authorize SJCOG to manage the RTIF Program for the San Joaquin County region; and,

WHEREAS, the Participating Agencies and SJCOG find and declare that in order to serve the purposes described herein, additional funding, other than that received from the RTIF Program is necessary and must be obtained and each party agrees to cooperate in obtaining additional funding; and,

WHEREAS, the Participating Agencies and SJCOG find and declare SJCOG prepared, adopted and certified in July 2004 a Final Program Environmental Impact Report (“EIR”) for the 2004 Regional Transportation Plan, State Clearing House number 2003082053, and the RTIF Program is hereby adopted in reliance on and consistent with this previously prepared, approved and certified EIR.

WHEREAS, the Participating Agencies have adopted or will adopt a Regional Transportation Impact Program Fee (“RTIF Program Fee” or “RTIF Fee”) pursuant to their authority to protect the public health, safety, and welfare consistent with the provisions of California Government Code Section 66000 et seq.; and,

WHEREAS, the integrity and success of the RTIF Program is dependent upon all Participating Agencies and SJCOG working cooperatively with each other in order to fulfill their obligations faithfully and promptly; and,

WHEREAS, funds collected pursuant to the Participating Agencies’ ordinances and/or resolutions adopting the RTIF Program are to be held and expended by the Participating Agencies and SJCOG as specified herein.

AGREEMENT

Now, therefore, in consideration of the mutual promises and undertakings herein made and the mutual benefits to be derived therefrom, the parties hereto represent, covenant and agree as follows:

SECTION 1. PURPOSE

1.1. The RTIF Program requires management procedures that assure that the objective of the RTIF Program is achieved. Specifically, the RTIF Program objective is to obtain funding from development projects that have an impact upon the Regional Transportation Network and to integrate these funds with federal, State, and other local funding to fund transportation improvements identified in the RTIF Program. While the RTIF Program and the RTIF Program

Fee will be imposed and collected by the Participating Agencies, the RTIF Program will be managed for the benefit of the entire County region.

1.2. This Agreement defines the terms of the required management procedures for Participating Agencies and SJCOG including specifications regarding levy and collection, administration, project selection, fund management, appropriation of fee funds, and ongoing technical review and updating.

SECTION 2. DEFINITIONS

2.1. "Development Project" or "Project" means any project undertaken for the purpose of development including the issuance of a permit for construction or reconstruction, but not a permit to operate.

2.2. "Industrial Project" means any Development Project that proposes manufacturing, transportation, logistics or warehousing as identified in the RTIF Land Use Fee Category Summary which is attached as Exhibit "A" hereto and incorporated herein by reference.

2.3. "Measure K" means the San Joaquin County Transportation Authority Local Transportation Improvement Plan: Air Quality, Mandatory Developer Fees and Growth Management Ordinance which establishes and implements a retail transactions and use tax, as may be extended from time to time.

2.4. "Multi-Family Residential Unit" means a Development Project that uses a single parcel for two or more dwelling units within one or more buildings, including duplexes, townhouses, condominiums, and apartments as identified in the RTIF Land Use Fee Category Summary which is attached as Exhibit "A" hereto and incorporated herein by reference.

2.5. "Office Project" means any Development Project that involves business activities associated with professional or administrative services, and typically consists of corporate offices, financial institutions, legal and medical offices, personal and laundry services, or similar uses, and religious centers as identified in the RTIF Land Use Fee Category Summary which is attached as Exhibit "A" hereto and incorporated herein by reference.

2.6. "Participating Agencies" means the County of San Joaquin and each of the cities situated in San Joaquin County if such agencies have (1) adopted the RTIF Program Fee by ordinance and/or resolution and (2) entered into this Agreement.

2.7. "Regional Transportation Impact Fee Program" or "RTIF Program" is the regional program established by this Agreement by the Participating Agencies and SJCOG to impose, collect and distribute a RTIF Fee to assist in the funding of transportation improvements to the Regional Transportation Network.

2.8. "Regional Transportation Impact Program Fee" or "RTIF Program Fee" or "RTIF Fee" means the fee established by each Participating Agency consistent with this Agreement to implement the RTIF Program.

2.9. “Regional Transportation Network” means the regional network of highways and arterials as identified in the RTIF Technical Report and which may be amended from time to time by SJCOG.

2.10. “RTIF Capital Projects” or “Capital Projects” or “RTIF Project List” is the RTIF Program improvements and projects as identified in the RTIF Technical Report and which may be amended from time to time by SJCOG’s adoption and amendment of a “RTIF Capital Projects Report.”

2.11. “RTIF Capital Projects Report” means the report adopted by SJCOG annually which identifies the RTIF Capital Projects as amended from time to time consistent with Section 9 of this Agreement.

2.12. “RTIF Technical Report” means the San Joaquin County Regional Transportation Impact Fee RTIF Technical Report dated XXXXX, and prepared pursuant to California Government Code, Section 66000 et seq., the Mitigation Fee Act.

2.13. "Residential Dwelling Unit" means a building or portion thereof which is designed primarily for residential occupancy by one family including single-family and multi-family dwellings. "Residential Dwelling Unit" shall not include hotels or motels.

2.14. "Retail Project" means any Development Project that retailing merchandise, generally without transformation, and rendering services incidental to the sale of merchandise at a fixed point of sale as identified in the RTIF Land Use Fee Category Summary which is attached as Exhibit “A” hereto and incorporated herein by reference.

2.15. "Single-Family Residential Unit" means the use of a parcel for only one residential dwelling unit as identified in the RTIF Land Use Fee Category Summary which is attached as Exhibit “A” hereto and incorporated herein by reference.

SECTION 3. FEE RATE

3.1. Establishing RTIF Program Fee. Within ninety (90) days of entering into this Agreement, each Participating Agency shall adopt a RTIF Program Fee in an amount equal to the following fees for each identified land use category consistent with the fee schedule adopted by the SJCOG on October 27, 2005.

RESIDENTIAL		NON – RESIDENTIAL		
Single Family	Multi-Family	Retail	Office	Industrial
\$2,500.00	\$1,500.00	\$1.00	\$1.25	\$0.75
DUE	DUE	Square Foot	Square Foot	Square Foot

3.2. Annual Adjustment. The RTIF Program Fee described in section 3.1 above shall be automatically adjusted by each Participating Agency on an annual basis at the beginning of each fiscal year (July 1) based on the Engineering News Record California Construction Cost Index.

SECTION 4. COLLECTION OF RTIF PROGRAM FEES

4.1. Payment of RTIF Program Fees. Payment of the RTIF Program Fees shall be as follows:

(a). The RTIF Program Fees shall be paid at the time of issuance of a building permit for the Development Project, or as otherwise required or permitted pursuant to Government Code section 66007.

(b). The amount of the RTIF Program Fees shall be the fee amounts in effect at the time of payment.

(c). RTIF Program Fees shall not be waived.

4.2. Payment by all Development Projects. Except as otherwise expressly provided by this Agreement, the RTIF Program Fee imposed by all Participating Agencies shall be payable by (1) all Development Projects within the jurisdiction of the Participating Agency for which building permits or other entitlements for Development Projects are issued on or after the effective date of the adoption of the RTIF Program Fee by the Participating Agency, and (2) all Development Projects within the Participating Agency for which building permits or other entitlements for Development Projects were issued prior to the effective date of the adoption of the RTIF Program Fee by the Participating Agency and which permits or entitlements were issued subject to a condition requiring the developer to pay a RTIF Program Fee to be imposed upon such Development Project within the jurisdiction of the Participating Agency.

4.3. Exemptions from the RTIF Program Fee. The following Development Projects shall not be subject to the RTIF Program Fee:

(a). The rehabilitation and/or reconstruction of any legal, residential structure and/or the replacement of a previously existing legal dwelling unit, including an expansion of an existing dwelling unit that does not create an additional dwelling unit.

(b). The rehabilitation and/or reconstruction of any non-residential structure where there is no net increase in square footage. Any increase in square footage shall pay the established applicable fee rate for that portion of square footage that is new.

(c). Development Projects for which an application for a vesting tentative map authorized by Government Code Section 66498.1 was deemed complete on or prior to the effective date of the adoption of the RTIF Program Fee by the Participating Agency.

(d). Development Projects which are the subject of a development agreement entered into pursuant to Government Code section 65864 et seq. prior to the effective date of the adoption of the RTIF Program Fee by the Participating Agency, wherein the imposition of new fees are expressly prohibited by the development agreement, provided, however, that if the term of such a development agreement is extended after the effective date of the adoption of the RTIF Program Fee, the RTIF Program Fee shall be imposed.

4.4. Future Development Agreements. All future development agreements entered into by the Participating Agencies shall require the full payment of the RTIF Program Fee.

4.5. Payments for non-residential projects. For non-residential projects the amount of the fee imposed on the entire Development Project shall be determined based upon (1) the gross floor area and (2) the predominant use of the building or structure as identified in the building permit.

4.6. Payment for mixed use projects. For mixed land use projects, which are projects that have both residential and non-residential uses, the amount of the fee imposed on the entire Development Project shall be proportionally determined based on the following:

- (a) The fee associated with the type of residence; and,
- (b) The predominant use of the non-residential portion of the project.

4.7. Previously Paid RTIF Program Fees. In the event that RTIF Program Fees have previously been paid for an existing building which is a new Development Project with a new or different RTIF Fee category, the previously paid RTIF Program Fees for that existing building shall be credited against the amount of the RTIF Program Fee attributable to the new Development Project, up to the amount of the previously paid RTIF Program Fee. A rebate will not be granted if the change in land use represents a lower fee.

SECTION 5. DISTRIBUTION OF RTIF PROGRAM FEES

5.1. Purpose of RTIF Program Fees. Except as otherwise provided in this Agreement, all RTIF Program Fees received by each Participating Agency or SJCOG shall be used solely for the purpose of funding Regional Transportation Network projects as specified in the RTIF Technical Report and which are included within the RTIF Capital Projects Report. Each Participating Agency and SJCOG may spend RTIF Program Fees held by that entity on RTIF Capital Projects at the discretion of that entity.

5.2. Distribution of Fee Revenue. All fees collected by each Participating Agency pursuant to the RTIF Program Fee shall be distributed as follows:

- (a). Ten (10) percent of the amounts collected by the Cities shall be paid directly to the County on a quarterly basis for the purpose of funding RTIF Capital Projects within the County of San Joaquin.
- (b). Ten (10) percent of the amounts collected by each Participating Agency shall be paid directly to SJCOG on a quarterly basis for the purposes of funding state highway improvements on the RTIF Project List.
- (c). Five (5) percent of the amounts collected by each Participating Agency shall be paid directly to SJCOG on a quarterly basis for the purposes of funding transit improvements on the RTIF Project List.
- (d). Seventy Five (75) percent of the amounts collected by each city shall be retained by each city collecting such funds for the purposes of funding RTIF Capital Projects, and Eighty Five (85) percent of the amounts collected by the County shall be retained by the County for the purposes of funding RTIF Capital Projects. In the event a

Participating Agency determines it does not want to retain or manage this portion of the RTIF Program Fees, the Participating Agency may provide this portion of the RTIF Program Fees to SJCOG for administration to assist with the construction of Capital Projects on behalf of the Participating Agency.

SECTION 6. ADMINISTRATIVE COSTS

6.1. Participating Agency Administrative Costs. The amount of RTIF Program Fee funds that are permitted to be used by each Participating Agency to cover ongoing administrative costs of implementing the RTIF Program shall be limited to up to two (2) percent of the first one million dollars (\$1,000,000) retained each year by each City pursuant to subdivision (d) of section 5.2 of this agreement or received each year by the County pursuant to subdivisions (a) and (d) of section 5.2 of this Agreement. In addition, each Participating Agency may use up to one (1) percent of the amounts retained or received each year in excess of the initial one million dollars (\$1,000,000).

6.2. SJCOG Administrative Costs. The amount of RTIF Program Fee funds permitted to be used by SJCOG to cover ongoing administrative costs of implementing the RTIF Program shall be limited to up to two percent (2%) of the first one million dollars (\$1,000,000) received each year by SJCOG pursuant to subdivision (b) and (c) of section 5.2 of this agreement and up to one percent (1%) of the amounts received each year in excess of the initial one million dollars (\$1,000,000).

6.3. Initial Third Party Costs. Each Participating Agency and SJCOG shall be responsible for paying third party costs incurred by SJCOG to establish the RTIF Program, including, but not limited to, the preparation of the RTIF Technical Report, the Capital Projects Report, and the RTIF Program documents. The amount of third party costs each Participating Agency and SJCOG shall pay is to be based on the percentage of the total County-wide RTIF Program Fees retained by each Participating Agency and SJCOG pursuant to section 5.2 of this Agreement. The amount payable to SJCOG by each Participating Agency and SJCOG shall be calculated by SJCOG based on actual RTIF Program Fees collected by each Participating Agency and SJCOG six (6) months from the Effective Date of this Agreement. The payments to SJCOG pursuant to this section 6.3 shall be made within one (1) year of the Effective Date of this Agreement. Payments for the initial third party costs shall not be considered administrative costs and shall not be subject to the limitations provided in sections 6.1 and 6.2 of this Agreement.

6.4. On-going Third Party Costs. On-going third party costs approved by the SJCOG Board of Directors to regionally implement the RTIF Program will be paid to SJCOG by each Participating Agency and SJCOG on a semiannual basis. The amount of on-going third party costs each Participating Agency and SJCOG shall pay is based on percentage of the total County-wide RTIF Program Fees retained by each Participating Agency and SJCOG pursuant to section 5.2 of this Agreement. These payments for the on-going third party costs shall not be considered administrative costs and shall not be subject to the limitations provided in sections 6.1 and 6.2 of this Agreement.

6.5. Legal Challenges. In the event that any Participating Agency and/or SJCOG is subject to a legal challenge of the RTIF Program then all Participating Agencies and SJCOG will be responsible for the costs associated with such legal challenge. At the time of such legal challenge the Participating Agencies and SJCOG will coordinate the defense of such legal challenge and the costs incurred for such legal challenge will be the responsibility of the Participating Agencies and SJCOG based on percentage of the total County-wide RTIF Program Fees retained by each Participating Agency and SJCOG pursuant to section 5.2 of this Agreement. For the purposes of this section 6.5, a legal challenge of the RTIF Program is limited to a challenge to either (a) the legal ability to adopt or impose the RTIF Program; or (b) the validity of the RTIF Technical Report. This section 6.5. will not apply to any legal challenge due to the manner of implementation of the RTIF Program that is either unique to a Participating Agency or that is not consistent with the provisions of this Agreement.

SECTION 7. ADMINISTRATION OF THE RTIF PROGRAM

7.1. RTIF Account or RTIF Funds. All fees collected pursuant to the RTIF Program Fee by each Participating Agency shall be deposited in a RTIF account or RTIF fund and shall not be commingled with other funds of the Participating Agency. The contents of this RTIF fund shall be designated solely for the purpose of contributing to the financing of the RTIF Capital Projects included in the RTIF Capital Projects Report and for the funding of incidental administrative costs. Any interest income earned on the RTIF fund shall also be deposited therein and shall only be expended for the purposes as set forth in this Agreement.

7.2. Prohibition on Interfund Transfers or Loans. Notwithstanding subsection (b)(1)(G) of section 66006 of the Government Code there shall be no interfund transfer, grant or loan of the RTIF Program Fees or RTIF fund or RTIF account to other accounts, funds, programs or fees. However, a Participating Agency may provide loans, grants or transfers of RTIF Program Fees to other Participating Agencies or SJCOG provided that such funds are consistent with the RTIF Program and used for the development or construction of RTIF Capital Projects.

7.3. Reporting Requirements. Each Participating Agency and SJCOG shall prepare and deliver to the Executive Director of SJCOG semiannual reports by February 28 and August 31 of each year of the status of the RTIF Program and RTIF Program Fees collected by that Participating Agency or received by SJCOG. These reports, which will be reviewed by the SJCOG Board of Directors, shall specify the amount of RTIF Program Fee revenue collected and the corresponding fee generating activity, including, such information as the types of permits issued by land use category, developer credits and reimbursements granted, RTIF Program revenue applied to RTIF Capital Projects, and the status of RTIF Program fees forwarded to the County and SJCOG by the Cities.

7.4. Annual Reports. Each Participating Agency shall prepare an annual report consistent with the requirements of the Fee Mitigation Act (Gov. Code §§ 66000 et seq.) regarding the RTIF Program Fees and submit that report to the Executive Director of SJCOG by November 15 of each year that RTIF Program Fee funds are held by the Participating Agency. For purposes of preparing the annual reports to satisfy the requirements of the Fee Mitigation Act, SJCOG and the County shall coordinate with and provide to each Participating Agency in a timely manner, and no later than October 15 of each year, all necessary information regarding

the RTIF Program funds held by SJCOG and the County that were distributed to the County and SJCOG from the Participating Agencies pursuant to section 5.2 of this Agreement.

7.5. Annual Audit. The RTIF Program financial activity for each Participating Agency and SJCOG shall be reviewed annually by March 31 of each year by an independent certified public accountant selected and retained by SJCOG.

7.6. RTIF Program Administrator. SJCOG is the monitor of the RTIF Program and will monitor all fee revenue generated pursuant to the RTIF Program as reported by all Participating Agencies. SJCOG shall prepare an annual report in coordination with each Participating Agency at the end of each fiscal year, which will be reviewed by the SJCOG Board of Directors.

SECTION 8. PERIODIC REVIEW OF RTIF PROGRAM FEES

8.1. Except as otherwise provided in Section 3.2 of this Agreement, the RTIF Program Fee shall not be adjusted during the first five years following the Effective Date of this Agreement. Thereafter, the RTIF Program Fee shall be evaluated, and adjusted accordingly, by all Participating Agencies and SJCOG every five (5) years to reflect the projected revenues generated or any other local or new funding sources, and to reflect changes in actual and estimated costs of the RTIF Capital Projects including, but not limited to, debt service, lease payments and construction costs. This evaluation shall include the report required by the Fee Mitigation Act (Gov. Code §§ 66000 et seq.) which includes, but is not limited to, all of the following information:

- (a). Identifies the purpose (project need) to which the fee is to be put;
- (b). Demonstrates a reasonable relationship between the fee and the purpose for which it is charged;
- (c). Identifies all sources and amounts of funding anticipated to complete financing in incomplete improvements;
- (d). Commits RTIF Program funds to RTIF Capital Project(s) and indicates that such funds are expended or reimbursed within the time periods established by the Fee Mitigation Act requirements; and,
- (e). Identifies the RTIF Capital Projects to be constructed, the estimated costs of the RTIF Capital Projects, the costs to be funded by the RTIF Program Fee revenue, and the availability or lack thereof of other funds with which to construct the Regional Transportation Network.

8.2. If the periodic reports prepared pursuant to section 8.1 above demonstrates a need, the Participating Agencies, in coordination with SJCOG, may consider modifying the RTIF Program Fee amount to insure that it is a fair and equitable method of distributing the costs of the improvements necessary to accommodate traffic volumes generated by future growth.

8.3. SJCOG and the County shall coordinate with each Participating Agency in the preparation of the periodic reports required by Section 8.1 of this Agreement and the Fee

Mitigation Act, and provide any and all information and/or commitments necessary regarding RTIF Program fees distributed to SJCOG and the County from the Cities. In the event RTIF Program fees must be refunded pursuant to section 66001 of the Government Code, SJCOG and the County will provide to each City for refund any proportional share of RTIF Funds that must be refunded that were distributed to SJCOG and/or the County by each City.

SECTION 9. SJCOG CAPITAL PROJECTS SELECTION.

9.1. RTIF Capital Projects Report. SJCOG will be responsible for establishing and maintaining the RTIF Project List. From time to time, at the request of a Participating Agency, and at least annually, SJCOG shall review the RTIF Capital Projects Report to add, modify, or remove RTIF Capital Projects. Each Participating Agency will have the opportunity to suggest changes to the Capital Projects within the RTIF Program at this time. SJCOG will make any and all changes to the Capital Projects Report annually taking into consideration the comments received from each Participating Agency consistent with the screening criteria contained within the RTIF Technical Report.

9.2. Project Inclusion Criteria. The technical basis of the RTIF Program is a list of road improvement projects identified as Capital Projects within the Regional Transportation Network which are eligible and appropriate for funding from the RTIF Program. The inclusion criteria used to select the RTIF Capital Projects are as set forth in the RTIF Technical Report. It is the application of these criteria that assure adherence to the required nexus principles. Modification to the inclusion criteria will require approval by resolution of all Participating Agencies and an update of the RTIF Technical Report.

9.3. Selection of New Capital Projects. Any new projects recommended for listing as a RTIF Capital Project must be modeled and screened consistent with the requirements of the Mitigation Fee Act (Gov. Code §§ 66000 et seq.) criteria for establishing a rational nexus. In addition, new projects added to the RTIF Project List must meet all of the following criteria:

9.3.1. Highway, Interchange, and Regional Roadway Improvements

- (a) The project is on the adopted Regional Transportation Network;
- (b) The project is scheduled for delivery within the time frame evaluated in the RTIF Technical Report; and,
- (c) The project involves a capacity improvement of one or more through travel or passing lanes, or auxiliary lanes (i.e. turn lanes). This criterion shall not be applied to interchange improvement projects.

9.3.2. Public Transit Improvements

- (a) The project is scheduled for delivery within the time frame evaluated in the RTIF Technical Report; and,
- (b) The project involves an improvement to an existing or a new service/facility which connects at least two (2) or more cities or regions.

9.4. Inclusion in Regional Transportation Plan. Prior to receiving any RTIF Program Fee revenue a project must be identified in the SJCOG Board approved Regional Transportation Plan (RTP) and the RTIF Project List.

9.5. RTIF Project Management. Each City is responsible for managing and delivering RTIF interchange and regional roadway projects located within its incorporated boundaries, except as otherwise specifically agreed to by such city. The County is responsible for managing and delivering RTIF Projects located within the unincorporated area of the county, except as otherwise specifically agreed to by the County.

SECTION 10. CREDITS AND REIMBURSEMENTS

10.1. Reimbursements and Credits. In the event that RTIF Capital Projects are constructed by a developer in excess of the Development Project's RTIF Program Fee obligation or in lieu of payment of RTIF Program Fees by a developer pursuant to an agreement between the developer and the Participating Agency, the developer may be reimbursed or credited for future application for any costs based on the actual costs of construction of the RTIF Capital Project incurred by the developer in excess of the amount the RTIF Program Fees that apply to the Development Project. Reimbursements shall be enacted pursuant to an agreement between the developer and the Participating Agency contingent on payment of funds when available for reimbursement to the developer. In all cases, however, reimbursements to developers pursuant to any agreement must be consistent with construction of the transportation improvements as scheduled in the RTIF Capital Projects Report.

SECTION 11. EXISTING REGIONAL TRANSPORTATION FEES

11.1. Each Participating Agency shall evaluate and adjust, if necessary, its existing local fee program(s), if any, associated with regional traffic impacts to determine continued compliance with the Fee Mitigation Act due to the adoption of the RTIF Program.

SECTION 12. WITHDRAWAL

12.1. For reasons pertaining to the lack of direct benefit, a Participating Agency may elect to withdraw from the RTIF Program upon providing one year written notice to SJCOG and each Participating Agency. If the Participating Agency has accrued RTIF Program Fee revenue, all funds plus interest earned shall be expended on RTIF Capital Projects by the Participating Agency or by any Participating Agency or SJCOG.

SECTION 13. MISCELLANEOUS

13.1. Effective Date. This Agreement shall be effective and all Participating Agencies and SJCOG shall be authorized to proceed under this Operating Agreement at the date in which this Agreement has been executed by the San Joaquin County Board of Supervisors, the City Councils of each of the Cities, and SJCOG.

13.2. Partial Invalidity. If any one or more of the terms or provisions of this Agreement shall be adjudged invalid, unenforceable, void or voidable by a court of competent jurisdiction,

each and all of the remaining terms and provisions of this Agreement shall not be affected thereby and shall be valid and enforceable to the fullest extent permitted by law.

13.3. Amendments. Any amendments to this Agreement shall be made by the SJCOG and all Participating Agencies.

13.4. Enforcement. It shall be the responsibility of the Participating Agencies and SJCOG to adopt, implement, and maintain the RTIF Program consistent with the terms of this Agreement.

13.5. Execution. The Board of Supervisors of the County of San Joaquin, the City Councils of the Cities, and the Board of Directors of SJCOG have each authorized execution of this Agreement as evidence by the authorized signatures below.

13.6. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one and the same instrument.

<u>PARTY</u>		<u>DATE OF APPROVAL</u>
Board of Supervisors, County of San Joaquin		
By		
Chair		Date
Attest:		
Clerk of the Board		
City Council, City of Escalon		
By		
Mayor		Date
Attest:		
City Clerk		

City Council, City of Lathrop		
By		
Mayor		Date
Attest:		
City Clerk		
City Council, City of Lodi		
By		
Mayor		Date
Attest:		
City Clerk		
City Council, City of Manteca		
By		
Mayor		Date
Attest:		
City Clerk		
City Council, City of Ripon		
By		
Mayor		Date
Attest:		
City Clerk		

City Council, City of Stockton		
By		
Mayor		Date
Attest:		
City Clerk		
City Council, City of Tracy		
By		
Mayor		Date
Attest:		
City Clerk		
San Joaquin Council of Governments		
By		
Board Chair		Date
Attest:		
Interim Executive Director		

EXHIBIT A

RTIF LAND USE FEE CATEGORY SUMMARY

RESIDENTIAL

Single-Family Dwelling

A single family dwelling is defined as a residence designed for or occupied exclusively as a residence for one family; including a vacation home or seasonal dwelling and is located on one parcel.

Multi-Family Dwelling

Multi-family dwellings are defined as single structures designed for and/or constructed to contain two (2) or more dwelling units which share common walls (i.e., rowhouse, townhouse, duplex, triplex, quadraplex, condominium, apartment complex). When an existing single-family dwelling is converted into two (2) or more dwellings, it will be reclassified and subject to the multi-family dwelling regional fee. As a planned development containing two (2) or more residences, mobile homes parks are considered multi-family dwellings. A “commercial apartment” dwelling located within a commercial building is classified as a multi-family dwelling.

NON-RESIDENTIAL

Relationship of businesses to RTIF non-residential land use categories are based on the North American Industry Classification System (NAICS)

Retail

Sector comprises establishments engaged in retailing merchandise, generally without transformation and rendering services incidental to the sale of merchandise—fixed point of sale location. NAICS Sectors 44 & 45 represents the retail industry. Examples of retail businesses include:

- Garden material and garden supply dealers
- Food and beverage stores (i.e., grocery stores, specialty food stores, beer/wine/liquor stores)
- Health and personal care stores
- Gasoline stations
- Motor vehicle and parts dealers
- Furniture and home furnishing stores
- Electronics and appliance stores
- Clothing and clothing accessories stores

- Sporting goods, hobby, book and music stores
- General merchandise stores
- Miscellaneous store retailers
- Non-store retailers such as electronic shopping and mail-order houses, direct selling establishments

Office/Service

Sector comprises finance, insurance, real estate professional, scientific and technical services, research and development, administrative & support services, education, health care and social assistance and other such as repair & maintenance, personal & laundry, and religious centers, including churches. NAICS Sectors 51 – 72, 81 & 92 represents the office industry. Examples of office related businesses include:

- Publishing industries, except Internet
- Motion picture and sound recording industries
- Broadcasting, except Internet
- Internet publishing and broadcasting
- Telecommunications
- Internet Service Providers, search portals, and data processing
- Other information services such as libraries and archives, news syndicates
- Monetary authorities such as banks, credit unions, credit card issuing services, sales financing, mortgage and non-mortgage loan brokers
- Securities, commodity contracts, investments
- Insurance carriers and related activities
- Funds, trusts, and other financial vehicles
- Real estate
- Rental and leasing activities
- Lessors of non-financial intangible assets
- Professional and technical services such as legal, accounting, engineering, design, consulting, research and development, advertising services
- Management of companies and enterprises
- Administrative and support services such as employment, business support (i.e., call centers, collection agencies), travel arrangement and reservation services, services to buildings and dwellings (i.e., janitorial, landscaping, pest control, carpet cleaning)
- Waste management and remediation services
- Educational services
- Health care and social assistance
- Hospitals
- Nursing and residential care facilities
- Social assistance (i.e., child/youth services, services for the elderly and persons with disabilities, shelters, food banks, vocational rehabilitation services, day care)
- Art, entertainment, and recreation
- Museums, historical sites, zoos, and parks
- Amusements, gambling, and recreation

- Accommodation and food services (i.e., traveler accommodations such as hotels and motels, bed-and breakfast inns, RV parks, rooming and boarding houses)
- Food services and drinking places (i.e., caterers, mobile food services, drinking places of alcoholic beverages, and full service restaurants)

Industrial

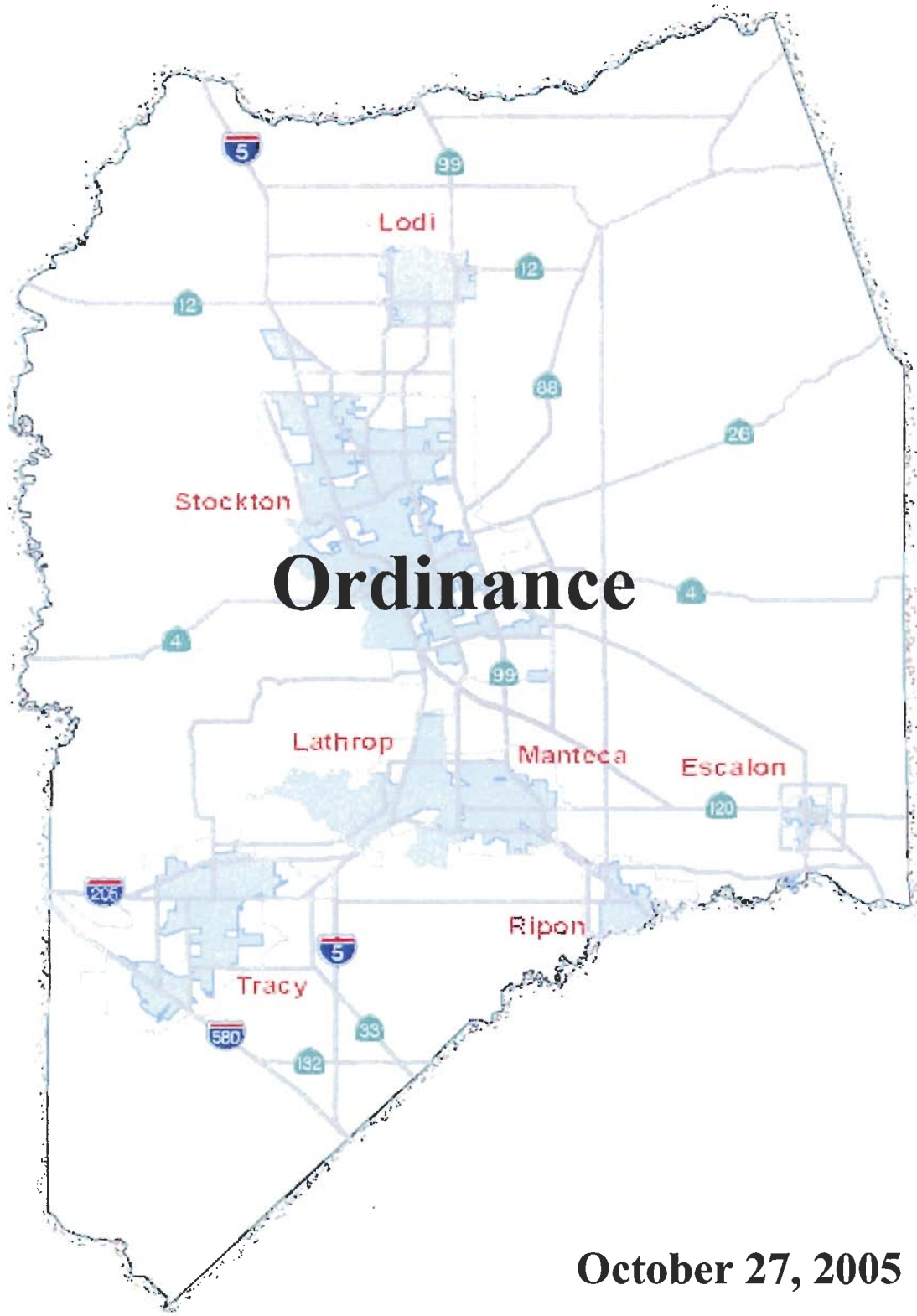
RTIF land use category of industrial includes **Manufacturing** establishments engaged in the mechanical, physical, or chemical transformation of components into products to include construction engaged in buildings and other structures. The industrial land use category also includes **Transportation, Logistics, and Warehousing** establishments engaged in wholesaling merchandise, generally without transformation and rendering services incidental to the sale of merchandise including industries providing transportation of passengers and cargo, warehousing and storage of goods, scenic and sightseeing transportation. The NAICS Sectors 21, 22, 23, 31 through 33, 42, 48 & 49 represents the industrial land use category. Examples of industrial related businesses include:

- Mining
- Support activities for mining
- Utilities (i.e., power generation and supply, natural gas distribution, water treatment plants)
- Construction of buildings
- Heavy and civil engineering construction
- Specialty trade contractors such as roofing, sheet rock, framing contractors
- Building and equipment contractors
- Building finishing contractors
- Other specialty trades such as residential and non-residential site preparations
- Food manufacturing (i.e., animal, flour, rice, breakfast cereal, dairy products, bakeries, nuts)
- Beverage and tobacco product manufacturing
- Textile and textile product mills
- Apparel manufacturing
- Leather and applied product manufacturing
- Wood product manufacturing
- Paper Manufacturing
- Printing and related support activities
- Petroleum and coal products manufacturing
- Chemical manufacturing
- Plastics and rubber products manufacturing
- Nonmetallic mineral product manufacturing (i.e., glass, cement & concrete, clay, lime/gypsum)
- Primary metal manufacturing
- Fabricated metal product manufacturing
- Machinery manufacturing
- Computer and electronic product manufacturing

- Electrical equipment and appliance manufacturing
- Transportation equipment manufacturing
- Furniture and related product manufacturing
- Miscellaneous manufacturing (i.e., medical equipment, jewelry, sporting goods, signage)
- Merchant wholesalers of durable and non-durable goods (i.e., motor vehicles and parts, furniture, lumber, paper, clothing, petroleum bulk stations and terminals)
- Electronic markets and agents and brokers
- Air, rail, water, truck, pipeline, scenic/sight seeing transportation
- Transit and ground passenger transportation
- Support activities for transportation
- Postal services
- Couriers and messengers
- Warehousing and storage



REGIONAL TRANSPORTATION IMPACT FEE



October 27, 2005

RTIF DRAFT MODEL ORDINANCE

AN ORDINANCE OF THE CITY COUNCIL [BOARD OF SUPERVISORS] OF THE CITY OF _____ [COUNTY OF SAN JOAQUIN] ADDING CHAPTER ____ TO THE [name of jurisdiction] CODE ESTABLISHING THE SAN JOAQUIN COUNTY REGIONAL TRANSPORTATION IMPACT FEE PROGRAM

The City Council [Board of Supervisors] of the City of _____ [County of San Joaquin] does ordain as follows:

Section 1. The Board of Supervisors/City Council has been informed and advised, and hereby finds, that future development within San Joaquin County and the cities therein will result in traffic volumes exceeding the capacity of the regional network of highways and arterials identified within the Regional Transportation Network as it presently exists.

The Board of Supervisors/City Council has been further informed and advised, and hereby finds, that if the capacity of the Regional Transportation Network is not improved, the result will be substantial traffic congestion in all parts of San Joaquin County, with unacceptable levels of service throughout San Joaquin County by 2025. Reduced transportation service levels will result in traffic congestion and related impacts upon air quality, economic development, and quality of life.

The Board of Supervisors/City Council has been further informed and advised, and hereby finds, that absent an RTIF Program, existing funding sources, including federal, State, and local sources, will be inadequate to construct the Regional Transportation Network needed to avoid the unacceptable levels of traffic congestion and related adverse impacts.

The County/City is a member agency of the San Joaquin Council of Governments ("SJCOG"), a joint powers agency consisting of the County of San Joaquin and the seven cities situated in San Joaquin County. Acting in concert, the member agencies of SJCOG developed the RTIF Program whereby the shortfall in funds needed to expand the capacity of the Regional Transportation Network could be made up in part by a Regional Transportation Impact Fee ("RTIF Program Fee") on future residential and non-residential development. As a member agency of SJCOG, the County/City participated in the preparation of the "San Joaquin County Regional Transportation Impact Fee RTIF Technical Report", dated October 27, 2005, and prepared pursuant to California Government Code, Section 66000 et seq., the Mitigation Fee Act (the "RTIF Technical Report").

The Board of Supervisors/City Council has reviewed the RTIF Technical Report, and hereby finds that future development within the County and cities will substantially adversely affect the Regional Transportation Network, and that unless such development contributes to the cost of improving the Regional Transportation Network, the Regional Transportation Network will operate at unacceptable levels of service. Adoption of a Regional Transportation Impact Fee Program, which establishes a RTIF Program Fee, and related cooperation with SJCOG to fund regional transportation improvements will augment other funding sources and help assure that needed improvements to the Regional Transportation Network are completed.

The Board of Supervisors/City Council hereby finds and determines that the failure to mitigate growing traffic impacts on the Regional Transportation Network within San Joaquin County will substantially impair the ability of public safety services, including police and fire, to respond, reduce air quality, and negatively affect economic development and the overall quality of life in the region. As a result, the failure to mitigate impacts on the Regional Transportation Network will adversely affect the public health, safety and welfare.

The Board of Supervisors/City Council further finds and determines that there is a reasonable and rational relationship between the use of the RTIF Program Fees and the type of development projects on which the fees are imposed because the fees will be used to construct the transportation improvements that are necessary for the safety, health and welfare of the residential and non-residential users of the development projects on which the RTIF Program Fee will be levied.

The Board of Supervisors/City Council further finds and determines that there is a reasonable and rational relationship between the need for the improvements to the Regional Transportation Network and the type of development projects on which the RTIF Program Fee is imposed because it will be necessary for the residential and non-residential users of such projects to have access to the Regional Transportation Network. Such development will benefit from the Regional Transportation Network improvements and the impact of such development will be mitigated in part by the payment of the RTIF Program Fees.

The Board of Supervisors/City Council further finds and determines that the cost estimates set forth in the RTIF Technical Report are reasonable cost estimates for constructing the identified Regional Transportation Network improvements and projects (“RTIF Capital Projects” or “Capital Projects”) and that the amount of the RTIF Program Fee expected to be generated by new development will not exceed the total fair share cost to such development.

The fees collected pursuant to this Ordinance shall be used to help pay for the construction and acquisition of the Regional Transportation Network improvements identified in the RTIF Technical Report as the “RTIF Project List” or “RTIF Capital Projects”. The need for the improvements is related to new development because such development generates additional traffic thus creating the demand for the improvements.

The Board of Supervisors/City Council finds that the RTIF Technical Report establishes a fair and equitable method for distributing a portion of the unfunded costs of improvements to the Regional Transportation Network.

The Board of Supervisors/City Council hereby adopts the RTIF Technical Report.

Section 2. Chapter _____ is hereby added to the [insert name of jurisdiction] Code to read in full as follows:

CHAPTER _____

SAN JOAQUIN COUNTY

REGIONAL TRANSPORTATION IMPACT FEE PROGRAM

SECTION 1. TITLE

This chapter shall be known as the San Joaquin County Regional Transportation Impact Fee Program Ordinance (hereinafter “Ordinance”).

SECTION 2. INTENT AND PURPOSE

Substantial population and employment growth is expected in San Joaquin County through 2025 and beyond. This growth will cause impacts on the Regional Transportation Network (“Regional Transportation Network” or “RTIF Network”) including increased congestion and related impacts unless substantial improvements are completed. The Regional Transportation Impact Fee Program (“RTIF Program”) is intended to impose a fee to provide funding for transportation and transit improvements that help mitigate these impacts. New development throughout the County will be subject to the fee which will be proportional to the impact caused on the Regional Transportation Network by such new development. The funding derived from the RTIF Program shall be used in combination with other funding available to complete the needed transportation and transit improvements.

SECTION 3. DEFINITIONS

3.1. For the purpose of this Ordinance, and any resolution implementing this Ordinance, the following words, terms and phrases shall have the following meanings:

(a). "Development Project" or "Project" means any project undertaken for the purpose of development including the issuance of a permit for construction or reconstruction, but not a permit to operate.

(b). “Industrial Project” means any Development Project that proposes manufacturing, transportation, logistics or warehousing as identified in the RTIF Land Use Fee Category Summary.

(c). “Measure K” means the San Joaquin County Transportation Authority Local Transportation Improvement Plan: Air Quality, Mandatory Developer Fees and Growth Management Ordinance which establishes and implements a retail transactions and use tax, as may be extended from time to time.

(d). "Multi-Family Residential Unit" means a Development Project that uses a single parcel for two or more dwelling units within one or more buildings, including duplexes, townhouses, condominiums, and apartments as identified in the RTIF Land Use Fee Category Summary.

(e). “Office Project” means any Development Project that involves business

activities associated with professional or administrative services, and typically consists of corporate offices, financial institutions, legal and medical offices, personal and laundry services, or similar uses, and religious centers as identified in the RTIF Land Use Fee Category Summary.

(f). "Participating Agencies" means the County of San Joaquin and each of the cities situated in San Joaquin County if such agencies have (1) adopted the RTIF Program Fee by ordinance and/or resolution and (2) entered into the Operating Agreement.

(g). "Regional Transportation Impact Fee Program" or "RTIF Program" is the regional program established by the Operating Agreement by the Participating Agencies and SJCOG to impose, collect and distribute a RTIF Program Fee to assist in the funding of transportation improvements to the Regional Transportation Network.

(h). "Regional Transportation Impact Program Fee" or "RTIF Program Fee" or "RTIF Fee" means the fee established by each Participating Agency consistent with the RTIF Program and the Operating Agreement.

(i). "Regional Transportation Network" means the regional network of highways and arterials as identified in the RTIF Technical Report and which may be amended from time to time by SJCOG.

(j). "RTIF Capital Projects" or "Capital Projects" or "RTIF Project List" is the RTIF Program improvements and projects as identified in the RTIF Technical Report and which may be amended from time to time by SJCOG's adoption and amendment of a "RTIF Capital Projects Report."

(k). "RTIF Capital Projects Report" means the report adopted by SJCOG annually which identifies the RTIF Capital Projects as amended from time to time by SJCOG.

(l). "RTIF Operating Agreement" or "Operating Agreement" is the Regional Transportation Impact Fee Program Operating Agreement establishing the administration of the RTIF Program as adopted by each Participating Agencies and SJCOG which may be amended from time to time by the parties thereto.

(m). "RTIF Technical Report" means the San Joaquin County Regional Transportation Impact Fee RTIF Technical Report dated October 27, 2005, and prepared pursuant to California Government Code, Section 66000 et seq., the Mitigation Fee Act.

(n). "Residential Dwelling Unit" means a building or portion thereof which is designed primarily for residential occupancy by one family including single-family and multi-family dwellings. "Residential Dwelling Unit" shall not include hotels or motels.

(o). "Retail Project" means any Development Project that retailing merchandise, generally without transformation, and rendering services incidental to the sale of merchandise at a fixed point of sale as identified in the RTIF Land Use Fee Category Summary.

(p). "Single-Family Residential Unit" means the use of a parcel for only one residential dwelling unit as identified in the RTIF Land Use Fee Category Summary.

SECTION 4. FEE RATE AND CALCULATION

4.1. Establishing the RTIF Program Fee. The amount of the RTIF Program Fee for Development Projects shall be consistent with the provisions of this Ordinance and the RTIF Technical Report and shall be established by a resolution of the City Council [Board of Supervisors].

4.2. Annual adjustment. The RTIF Program Fee shall be automatically adjusted on an annual basis at the beginning of each fiscal year (July 1) based on the Engineering News Record California Construction Cost Index.

SECTION 5. COLLECTION OF RTIF PROGRAM FEES

5.1. Authority of the Community Development Department [or the Public Works Director or the City Manager]. The Director of Community Development [insert title of appropriate department head], or his/her designee, is hereby authorized to levy and collect the RTIF Program Fee and make all determinations required by this Ordinance.

5.2. Payment of RTIF Program Fees. Payment of the RTIF Program Fees shall be as follows:

(a). The RTIF Program Fees shall be paid at the time of issuance of a building permit for the Development Project, or as otherwise required or permitted pursuant to Government Code section 66007.

(b). The amount of the RTIF Program Fees shall be the fee amounts in effect at the time of payment.

(c). RTIF Program Fees shall not be waived.

5.3. Payment by all Development Projects. Except as otherwise expressly provided by this Ordinance, the RTIF Program Fee required hereunder shall be payable by (1) all Development Projects within the City [County] for which building permits or other entitlements for Development Projects are issued on or after the effective date of this Ordinance, and (2) all Development Projects within the City [County] for which building permits or other entitlements for Development Projects were issued prior to the effective date of this Ordinance and which permits or entitlements were issued subject to a condition requiring the developer to pay a RTIF Program Fee to be imposed upon such Development Project within the City [County].

5.4. Exemptions from the RTIF Program Fee. The following Development Projects shall not be subject to the RTIF Program Fee:

(a). The rehabilitation and/or reconstruction of any legal, residential structure and/or the replacement of a previously existing legal dwelling unit, including an expansion of an existing dwelling unit that does not create an additional dwelling unit.

(b). The rehabilitation and/or reconstruction of any non-residential structure where there is no net increase in square footage. Any increase in square footage shall pay

the established applicable fee rate for that portion of square footage that is new.

(c). Development Projects for which an application for a vesting tentative map authorized by Government Code Section 66498.1 was deemed complete on or prior to the effective date of the introduction of this Ordinance.

(e). Development Projects which are the subject of a development agreement entered into pursuant to Government Code section 65864 et seq. prior to the effective date of the adoption of this Ordinance, wherein the imposition of new fees are expressly prohibited by the development agreement, provided, however, that if the term of such a development agreement is extended after the effective date of this Ordinance, the RTIF Program Fee shall be imposed.

5.5. Future Development Agreements. All future development agreements entered into after the effective date of this Ordinance shall require the full payment of the RTIF Program Fee.

5.6. Payments for non-residential projects. For non-residential projects the amount of the fee imposed on the entire Development Project shall be determined based upon (1) the gross floor area and (2) the predominant use of the building or structure as identified in the building permit.

5.7. Payment for mixed use projects. For mixed land use projects, which are projects that have both residential and non-residential uses, the amount of the fee imposed on the entire Development Project shall be proportionally determined based on the following:

- (a) The fee associated with the type of residence; and,
- (b) The predominant use of the non-residential portion of the project.

5.8. Previously Paid RTIF Program Fees. In the event that RTIF Program Fees have previously been paid for an existing building which is a new Development Project with a new or different RTIF Fee category, the previously paid RTIF Program Fees for that existing building shall be credited against the amount of the RTIF Program Fee attributable to the new Development Project, up to the amount of the previously paid RTIF Program Fee. A rebate will not be granted if the change in land use represents a lower fee.

5.9. Reimbursements and Credits. In the event that RTIF Capital Projects are constructed by a developer in excess of the Development Project's RTIF Program Fee obligation or in lieu of payment of RTIF Program Fees by a developer pursuant to an agreement between the developer and the County[City], the developer may be reimbursed or credited for future application for any costs based on the actual costs of construction of the RTIF Capital Project incurred by the developer in excess of the amount the RTIF Program Fees that apply to the Development Project.

SECTION 6. ADMINISTRATION OF THE RTIF PROGRAM

6.1. RTIF account or RTIF funds. All fees collected pursuant to the RTIF Program Fee shall be deposited in a RTIF account or RTIF fund and shall not be commingled with other

funds. The contents of this RTIF fund shall be designated solely for the purpose of contributing to the financing of the RTIF Capital Projects included in the RTIF Capital Projects Report and for the funding of incidental administrative costs. Any interest income earned on the RTIF fund shall also be deposited therein and shall only be expended for the purposes as set forth in this Ordinance.

6.2. Prohibition on Interfund Transfers or Loans. Notwithstanding subsection (b)(1)(G) of section 66006 of the Government Code there shall be no interfund transfer, grant or loan of the RTIF Program Fees or RTIF fund or RTIF account to other County [City] accounts, funds, programs or fees. However, County [City] may provide loans, grants or transfers of RTIF Program Fees to other Participating Agencies or SJCOG provided that such funds are consistent with the RTIF Program and used for the development or construction of RTIF Capital Projects.

SECTION 7. EXISTING [INSERT NAME OF JURISDICTIONS EXISTING REGIONAL FEE] FEE [OPTIONAL, INCLUDE ONLY IF APPLICABLE]

7.1. The existing [insert name of existing jurisdictions fee] local fee pursuant to section _____[insert authority for fee in existing jurisdiction's code] shall be adjusted on any future projects that are identified in the approved RTIF Project List to ensure continued compliance with the Fee Mitigation Act (Gov. Code §§ 66000 et seq.).

Section 3. If any one or more of the terms, provisions or sections of this Ordinance shall to any extent be judged invalid, unenforceable and/or avoidable for any reason whatsoever by a court of competent jurisdiction, then each and all of the remaining terms, provisions and sections of this Ordinance shall not be affected thereby and shall be valid and enforceable.

Section 4. This ordinance is not intended to and shall not be construed or given effect in a manner that imposes upon the County[City] or any officer or employee thereof a mandatory duty of care toward persons and property within or without the County[City] so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

Section 5. This Ordinance shall be in full force thirty (30) days after its passage and prior to the expiration of fifteen days from the passage thereof, shall be published once in a newspaper of general circulation published in the jurisdiction, with the names of the members voting for and against same.

The foregoing ordinance was introduced and the title thereof read at the regular meeting of the Board of Supervisors [City Council] of the County of San Joaquin [City of _____] held on, _____, 2005, and by a unanimous vote of the members present, further reading was waived.

PASSED AND ADOPTED this ____ day of _____ 2005, by the following vote of the Board of Supervisors [City Council]:

AYES:

NOES:

ABSENT:

ABSTAIN:

_____, Chair of the
Board of Supervisors of the County of
San Joaquin, State of California [Mayor
of the City of _____]

ATTEST:

_____, Clerk

RESOLUTION

ESTABLISHING THE SAN JOAQUIN COUNTY REGIONAL TRANSPORTATION IMPACT PROGRAM FEES

WHEREAS, the [insert jurisdiction] as adopted the San Joaquin County Regional Transportation Impact Fee Program Ordinance, the RTIF Technical Report, and the Regional Transportation Impact Fee Program Operating Agreement;

NOW THEREFORE the City Council [Board of Supervisors] establishes the following fees to be collected by the City of _____ [County of San Joaquin] for the RTIF Program pursuant to the San Joaquin County Regional Transportation Impact Fee Program Ordinance and the RTIF Technical Report.

The rate of the fee applicable to any particular Development Project shall be as follows:

- (a). \$2,500 for each Single-Family Residential Unit
- (b). \$1,500 for each Multi-Family Residential Unit
- (c). \$1.00 for each square foot of a Retail Project
- (d). \$1.25 for each square foot of a Office Project
- (e). \$0.75 for each square foot of a Industrial Project

The fees shall be collected, administered and adjusted consistent with the San Joaquin County Regional Transportation Impact Fee Program Ordinance, the RTIF Technical Report, and the Regional Transportation Impact Fee Program Operating Agreement.

PASSED AND ADOPTED this _____ day of _____ 2003, by the following vote of the Board of Supervisors [City Council]:

AYES:

NOES:

ABSENT:

ABSTAIN:

_____, Chair of the Board of
Supervisors of the County of San Joaquin, State
of California [Mayor of the City of
_____]

ATTEST:

_____, Clerk



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Adopt resolution establishing Market Cost Adjustments to be effective December 2, 2005 (EUD)

MEETING DATE: November 16, 2005

PREPARED BY: Interim Electric Utility Director

RECOMMENDED ACTION: That the City Council adopt a resolution establishing Market Cost Adjustments to be effective December 2, 2005.

BACKGROUND INFORMATION: On October 18, 2005, the financial status of the Electric Utility was reviewed with the City Council at a Shirtsleeve Session. This review demonstrated that:

- Purchased power expenses had increased by 29% over the prior years cost of power;
- The utility had been operating in a deficit condition (expenses exceeding revenues) since FY03, relying on fund balances (savings) to make up for the difference between revenues and expenses;
- Operating expenses would exceed revenues by \$9.2 million and all remaining fund balances (savings accounts) available to the electric utility would be eliminated during the current fiscal year if a Market Cost Adjustment to rates was not put in place; and
- Delays in implementing the Market Cost Adjustment would cause the electric utility to incur losses of approximately \$800,000 per month that would need to be made up through higher increases to all customers of approximately 1.2% per month for each month of delay in implementing the MCA.

On October 19, 2005, the City Council was presented with the financial information described above for a second time, along with information that set out the Market Cost Adjustment for each class of customer and an assessment of the effect of the recommended Market Cost Adjustment on the average customer within each rate class. As part of the October 19, 2005 council meeting, the City Council also received feedback from the public, including the large industrial customers slated to receive the largest increases, that the magnitude of the increase was too large, and the timing of the increase with such short notice significantly and adversely impacted their budgeting and planning processes.

After hearing from staff and the public, and deliberating on staff and public comments, the City Council approved the first reading of Ordinance 1765, which would allow implementation of a Market Cost Adjustment through resolution, and directed staff to modify the originally recommended Market Cost Adjustment to reflect:

1. The recommended MCA for the I1 rate class should be reduced by 50%, and
2. No customers should receive a decrease in their bill as a result of the Market Cost Adjustment to reflect the principle that the entire community would help to solve the financial problem facing the electric utility.

On November 2, 2005 City Council approved the second reading of Ordinance 1765, which will eliminate the Market Cost Adjustment, which has been in effect since 2002, and which further provides that all

APPROVED: _____
Blair King, City Manager

future Market Cost Adjustments will be implemented by Resolution. Council also received a presentation and materials that previewed the new Market Cost Adjustment (MCA) table required to reflect the policy preferences expressed by City Council on October 19, 2005, along with two alternative proposals presented by staff.

After deliberation, the City Council expressed its policy preference that staff develop a set of Market Cost Adjustments that reflects the following:

- The MCA for the I1 classes be set at 50% of level recommended by staff on October 19, 2005;
- The reduction in revenues arising from the 50% MCA level established for the I1 class be recovered in the following manner:
 - Up to \$500,000 is to be collected from the residential EA class provided that the group of customers receiving no increase under Council's October 19, 2005 expressed policy preference would see no more than a 10% increase in their bills; and
 - The remaining shortage (approximately \$1,000,000) is to be collected by identifying other savings throughout the city or other revenue sources and presented to Council as part of the mid year budget adjustment process.

Issue:

The Market Cost Adjustment reflecting the policy preferences expressed by City Council at its last meeting, and described above, is attached. For the residential class, the previous winter/summer split was reduced to a winter MCA that will be applied to residential customer bills to reflect the fact that the long-term rate structure will be put in place before the summer MCA would be applicable. A new table, showing the effect of these MCA modifications on an annualized basis on the average customer in each class is attached.

Next Steps:

As described at the last council meeting, the next two activities to address the long-term financial condition of the Electric Utility include the cost of service study/ "rate true up" and the risk management program.

Cost of Service Study

The cost of service study will form the basis for updating the city's overall rate structure. This updating has previously been referred to as "truing up" the rates. The primary goal of the update is to bring the base rates into alignment with actual costs and redistribute the amount of revenue that is recovered through the base rate as opposed to through the Market Cost Adjustment. A second goal will be to review and reaffirm or modify historical policy preferences regarding the application of discounted rates. The third and final goal will be to design a rate structure to implement the Council's policy preferences, including any transitional features should those be necessary.

Risk Management Program

The risk management program, which constitutes the final phase of addressing Lodi Electric's long-term financial condition, will:

- Identify standardized reports that will be provided to city council that are necessary to ensure oversight of the electric utility;
- Establish the frequency, method and individual responsible for preparation and transmission of the standardized reports;
- Establish procurement strategies:
 - Recommended amounts of energy to procure on an advance basis vs. the spot market;
 - Recommended amounts of energy to procure through contract vs. ownership;
 - Recommended term lengths for procurement contracts; and
 - Authorization limits, checks and balances associated with procurement authorizations.
- Recommendations for implementing the risk management program.

FISCAL IMPACT: The fiscal impact of this action will be to reduce the imbalance between revenues and expenses as described in the body of this staff report.

FUNDING: Increased sales revenue associated with this action flow to the “Electric Operating Revenue” account.

James R. Krueger, Finance Director

David Dockham
Interim Electric Utility Director

DD/lst

Attachments (4)

cc: City Attorney
Finance Director

Attachment 1

MARKET COST ADJUSTMENT BILLING FACTOR

The Market Cost Adjustment Billing Factor by designated rate schedule, in cents per kilowatt-hour, shall be shown in the Section. Certain classes may have a tiered MCABF by level of monthly consumption.

EA		
Tier	kWh	cents per kWh
1	0-50	2.60
2	51-300	2.90
3	301-400	4.10
4	401-508	4.90
5	509-600	4.90
6	601-781	6.50
7	782-900	13.20
8	901-1,171	17.60
9	>1,171	19.00
EE		
Tier	kWh	cents per kWh
1	0-50	1.75
2	51-300	1.75
3	301-600	3.25
4	601-900	4.90
5	901-952	5.75
6	953-1,237	5.75
7	1,238-1,903	7.10
8	1,904-2,855	13.00
9	>2,855	20.00
ED		
Tier	kWh	cents per kWh
1	0-50	1.40
2	51-300	1.40
3	301-400	2.60
4	401-508	2.60
5	509-600	2.60
6	601-781	8.00
7	782-900	12.00
8	901-1,171	12.80
9	>1,171	15.20
EF		
Tier	kWh	cents per kWh
1	0-50	1.40
2	51-300	1.40
3	301-600	2.60
4	601-900	3.92
5	901-952	4.60
6	953-1,237	4.60
7	1,238-1,903	5.68
8	1,904-2,855	10.40
9	>2,855	16.00
Class	Type	cents per kWh
ES	All	0.94
EM	All	6.98
EL	All	1.00
Commercial/Industrial		
Class	Type	cents per kWh
G1	All	4.09
G2	All	4.83
G3	All	4.46
G4	All	3.36
G5	All	2.80
I1	<4,000 kW	3.12
I1	>4,000 kW	2.50

effective MCA for I1 < 4000 kw is 1.56

Attachment 2

Effect of Interim MCA on Average Customer Bill

	Number of Customers	Lodi Annual Kw/hr	Average Consumption	10/19/2005 Increase in Avg Bill	11/2/2005 Increase in Avg Bill EUD Proposal	11/2/2005 Increase in Avg Bill As Modified	Equivalent Residential Units
EA	19,128	134,010,453	584	\$11.09	\$15.30	\$13.15	
EE	610	3,550,200	485	\$13.63	\$13.63	\$13.63	
ED Share	1,731	9,658,833	465	\$5.35	\$5.35	\$5.35	
EM Domestic	490	2,634,762	448	\$31.32	\$31.32	\$31.32	
Residential	21,959	149,854,248					
G1	3,032	42,511,770	1,168	\$13.32	\$13.32	\$13.32	2
G2	395	108,902,370	22,975	\$480.18	\$480.18	\$480.18	39
G3 Small	8	13,092,777	136,383	\$3,586.88	\$3,586.88	\$3,586.88	234
G4 Medium Industrial	8	21,224,562	221,089	\$3,493.21	\$3,493.21	\$3,493.21	379
Dusk to Dawn	96	414	-	\$0.00	\$0.00	\$0.00	0
City ES	122	8,068,421	5,511	\$0.00	\$0.00	\$0.00	0
Commercial	3,661	193,800,314					
G5	4	11,119,420	231,655	\$3,474.82	\$3,474.82	\$3,474.82	
I-1 General Mills	1	36,643,139	3,053,595	\$76,034.51	\$76,034.51	\$76,034.51	
Contract Medium	3	4,980,041	138,334	\$5,256.71	\$5,256.71	\$5,256.71	
Contract Large	5	56,719,861	945,331	\$21,553.55	\$21,553.55	\$21,553.55	
Industrial	13	109,462,461					
System	25,633	453,117,023					

Attachment 3

Comparison of Average Rates, Average Bills and Average Monthly Increases based on Councils expressed preferences versus the original EUD proposal

	Number of	Lodi Annual	Average	Current		10/19/2005		11/2/2005		10/19/2005	11/2/2005	Equivalent
	Customers	KWh	Consumption	Avg Rate	Avg Bill	Avg Rate	Avg Bill	Avg Rate	Avg Bill	Avg Monthly Increase	Avg Monthly Increase	Residential Units
EA	19,128	134,010,453	584	0.1465	\$ 85.53	0.1655	\$ 96.62	0.1690	\$ 98.68	\$ 11.09	\$ 13.15	
EE	610	3,550,200	485	0.1297	\$ 62.90	0.1578	\$ 76.53	0.1578	\$ 76.53	\$ 13.63	\$ 13.63	
ED Share	1,731	9,658,833	465	0.0842	\$ 39.15	0.0957	\$ 44.50	0.0957	\$ 44.50	\$ 5.35	\$ 5.35	
EM Domestic	490	2,634,762	448	0.0792	\$ 35.49	0.1491	\$ 66.81	0.1491	\$ 66.81	\$ 31.32	\$ 31.32	
Residential	21,959	149,854,248										
G1	3,032	42,511,770	1,168	0.1545	\$ 180.52	0.1659	\$ 193.84	0.1659	\$ 193.84	\$ 13.32	\$ 13.32	2
G2	395	108,902,370	22,975	0.1287	\$ 2,956.91	0.1496	\$ 3,437.09	0.1496	\$ 3,437.09	\$ 480.18	\$ 480.18	39
G3 Small	8	13,092,777	136,383	0.1172	\$ 15,984.10	0.1435	\$ 19,570.97	0.1435	\$ 19,570.97	\$ 3,586.88	\$ 3,586.88	234
G4 Medium Industrial	8	21,224,562	221,089	0.1074	\$ 23,744.98	0.1232	\$ 27,238.19	0.1232	\$ 27,238.19	\$ 3,493.21	\$ 3,493.21	379
Dusk to Dawn	96	414	-	-	\$ -	-	-	-	-	-	-	
City ES	122	8,068,421	5,511	0.0944	\$ 520.26	-	-	-	-	-	-	
Commercial	3,661	193,800,314										
G5	4	11,119,420	231,655	0.0991	\$ 22,956.97	0.1141	\$ 26,431.79	0.1141	\$ 26,431.79	\$ 3,474.82	\$ 3,474.82	
I-1 General Mills	1	36,643,139	3,053,595	0.0642	\$ 196,040.79	0.0891	\$ 272,075.31	0.0891	\$ 272,075.31	\$ 76,034.51	\$ 76,034.51	
Contract Medium	3	4,980,041	138,334	0.0852	\$ 11,786.10	0.1232	\$ 17,042.81	0.1232	\$ 17,042.81	\$ 5,256.71	\$ 5,256.71	
Contract Large	5	56,719,861	945,331	0.0621	\$ 58,705.06	0.0849	\$ 80,258.60	0.0849	\$ 80,258.60	\$ 21,553.55	\$ 21,553.55	
Industrial	13	109,462,461										
System	25,633	453,117,023										

Attachment 4

Summary of revenue changes and overall rate impacts associated with MCA increase

	Lodi Current Revenue	Lodi Energy KWh	Current Lodi Average Rate \$/kwh	Proposed Lodi Avg Rate \$/kwhr	% Change	Revenue at Proposed Rate
EA	\$ 19,637,674	134,010,453	\$ 0.1465	\$ 0.1690	15.33%	\$ 22,648,948
EE	\$ 460,503	3,550,200	\$ 0.1297	\$ 0.1578	21.68%	\$ 560,347
ED Share	\$ 813,324	9,658,833	\$ 0.0842	\$ 0.0957	13.65%	\$ 924,337
EM Domestic	\$ 208,802	2,634,762	\$ 0.0792	\$ 0.1491	88.09%	\$ 392,735
Residential	\$ 21,120,303	149,854,248	\$ 0.1409	\$ 0.1637	16.13%	\$ 24,526,367
G1	\$ 6,568,419	42,511,770	\$ 0.1545	\$ 0.1659	7.39%	\$ 7,054,106
G2	\$ 14,016,962	108,902,370	\$ 0.1287	\$ 0.1496	16.23%	\$ 16,291,675
G3 Small	\$ 1,534,402	13,092,777	\$ 0.1172	\$ 0.1435	22.47%	\$ 1,879,240
G4 Medium Industrial	\$ 2,280,317	21,224,562	\$ 0.1074	\$ 0.1232	14.69%	\$ 2,615,360
Dusk to Dawn	\$ 34,228	414		NA	NA	\$ 37,651
City ES	\$ 761,616	8,068,421	\$ 0.0944	NA	NA	\$ 837,778
Commercial	\$ 25,195,944	193,800,314	\$ 0.1300	\$ 0.1482	13.97%	\$ 28,715,810
G5	\$ 1,101,384	11,119,420	\$ 0.0991	\$ 0.1141	15.15%	\$ 1,268,226
I-1 General Mills	\$ 2,351,642	36,643,139	\$ 0.0642	\$ 0.0891	38.85%	\$ 3,265,270
Contract Medium	\$ 424,520	4,980,041	\$ 0.0852	\$ 0.1232	44.55%	\$ 613,657
Contract Large	\$ 3,520,437	56,719,861	\$ 0.0621	\$ 0.0849	36.85%	\$ 4,817,785
Industrial	\$ 7,397,983	109,462,461	\$ 0.0676	\$ 0.0910	34.70%	\$ 9,964,939
System	\$ 53,714,229	453,117,023	\$ 0.1185	\$ 0.1395	17.67%	\$ 63,207,115

RESOLUTION NO. 2005-____

A RESOLUTION OF THE LODI CITY COUNCIL
IMPLEMENTING AND ADJUSTING THE MARKET
COST ADJUSTMENT FOR ELECTRIC RATES

=====

WHEREAS, the Council of the City of Lodi finds as follows:

1. The City of Lodi provides electricity to its citizens through the Lodi Electric Utility Department;
2. The City charges customers of this utility a charge to fund the on-going operation and maintenance of the electric supply;
3. Wholesale electric costs have experienced severe volatility in the 2005-2006 budget year and price volatility is expected to continue into the 2006-2007 budget year;
4. The net cost for the cost increases in the 2005-2006 budget year has to date been borne by the Electric Utility Departments reserves and will if left unchecked, ultimately leave the account in a significant deficit;
5. The Lodi Municipal Code authorizes the City Council to impose by resolution a Market Cost Adjustment to address cost spikes in the wholesale electric market (Lodi Municipal Code Section 13.20.175).

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lodi as follows:

Section 1. Recitals. The foregoing recitals are true and correct.

Section 2. Levy of Charges. Pursuant to Section 13.20.175 of the Lodi Municipal Code, the Market Cost Adjustment attached hereto as Exhibit "A" are hereby approved.

Section 3. Effective Date. This resolution shall take effect on December 2, 2005, thirty days following the date of its passage.

Dated: November 16, 2005

=====

I hereby certify that Resolution No. 2005-____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held November 16, 2005, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

SUSAN J. BLACKSTON
City Clerk

2005-____

Attachment 1

MARKET COST ADJUSTMENT BILLING FACTOR

The Market Cost Adjustment Billing Factor by designated rate schedule, in cents per kilowatt-hour, shall be shown in the Section. Certain classes may have a tiered MCABF by level of monthly consumption.

EA		
Tier	kWh	cents per kWh
1	0-50	2.60
2	51-300	2.90
3	301-400	4.10
4	401-508	4.90
5	509-600	4.90
6	601-781	6.50
7	782-900	13.20
8	901-1,171	17.60
9	>1,171	19.00
EE		
Tier	kWh	cents per kWh
1	0-50	1.75
2	51-300	1.75
3	301-600	3.25
4	601-900	4.90
5	901-952	5.75
6	953-1,237	5.75
7	1,238-1,903	7.10
8	1,904-2,855	13.00
9	>2,855	20.00
ED		
Tier	kWh	cents per kWh
1	0-50	1.40
2	51-300	1.40
3	301-400	2.60
4	401-508	2.60
5	509-600	2.60
6	601-781	8.00
7	782-900	12.00
8	901-1,171	12.80
9	>1,171	15.20
EF		
Tier	kWh	cents per kWh
1	0-50	1.40
2	51-300	1.40
3	301-600	2.60
4	601-900	3.92
5	901-952	4.60
6	953-1,237	4.60
7	1,238-1,903	5.68
8	1,904-2,855	10.40
9	>2,855	16.00
Class	Type	cents per kWh
ES	All	0.94
EM	All	6.98
EL	All	1.00
Commercial/Industrial		
Class	Type	cents per kWh
G1	All	4.09
G2	All	4.83
G3	All	4.46
G4	All	3.36
G5	All	2.80
I1	<4,000 kW	3.12
I1	>4,000 kW	2.50

effective MCA for I1 < 4000 kw is 1.56



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Review Conceptual Water Meter Retrofit Program

MEETING DATE: November 16, 2005

PREPARED BY: Public Works Director

RECOMMENDED ACTION: That the City Council review the recommended conceptual water meter retrofit program and give staff direction on finalizing the policy.

BACKGROUND INFORMATION: State law now requires that new water services be both metered and the customer be charged based on water usage. In addition, as part of the public comments on recent water rate increases, the City received numerous comments on the unfairness of our current bedroom-based flat-rate system.

The Council has previously authorized solicitation of bids for purchase and installation of a “pilot” group of approximately 400 meters. The main purpose of the pilot project is to gather a large sample of consumption data and to “test” our rate structure. Increasing (or decreasing) revenue is not the purpose of metering; rather, the purpose is to promote water-use awareness and conservation and to fairly distribute water utility costs to the users. The pilot project will also test our own systems and practices and will include use of automated meter-reading equipment.

Given the high total cost of a retrofit program – over \$15 million - staff is proposing that the retrofit program be done over the maximum time allowed by the State (to January 1, 2025). The cost estimate is shown in Exhibit A. The estimate shows three service conditions and two alternatives:

- Pre-1979 services which would need to be modified to accept a meter – this is the largest group and the most expensive to retrofit.
- 1979-1992 services which are ready to accept a meter (this also includes just over 500 services which have been installed as part of the water main replacement program).
- Post-1992 services which are ready for a meter and the customers (typically the developer or initial home-builder) have paid for a meter.
- One alternative is to replace/upgrade the entire service when installing a meter. This is substantially more expensive than the second alternative and is not recommended.

In addition to actually installing meters, transitioning from flat rates to metered rates over time raises a number of implementation issues and policy questions. Exhibit B, in question and answer format, raises these issues and provides rationale for the recommended policy. In brief, the main points are:

- Customers will be charged metered rates as the meters are installed starting in FY 2006/07 (after results from the pilot program are analyzed). The main implication of this policy element is that we will have a mix of both metered and flat-rate customers for many years.

APPROVED: _____
Blair King, City Manager

- Customers at locations for which the meter has not been paid for will be charged the cost of the meter. The water utility will bear the cost of upgrading the water service, except in development related circumstances, per past and current City ordinance.
- Meters will be installed on a systematic basis in a pre-determined annual schedule through 2024, which will be established as part of the pilot program.

Many other details are included in Exhibit B. Following Council review and direction, staff will prepare a more formal policy document for final approval at a later date.

FISCAL IMPACT: Based on current estimates, the average annual cost of this program to the Utility, in current dollars, is \$580,000, assuming all customers pay the meter cost and the Utility pays the service upgrade costs. These costs will be refined once we have bids for meters and installation. Assuming the

City continues to adjust water rates annually to account for inflation and no other significant and unavoidable capital expenses occur, this program can be accomplished within our current rate structure.

FUNDING AVAILABLE: Water Fund

James R. Krueger, Finance Director

Richard C. Prima, Jr.
Public Works Director

RCP/pmf

Attachments

Water Meter Retrofit Estimated Implementation Costs

Existing Water Service Configurations:			No. of Connections	
Connections with Water Shut Off Valves Only	Pre - 1979			10,948
Connections w/ Meter Boxes Only	1979-1992			2,530
Connections w/ Paid Meters and Meter Boxes	1992-Present			3,224
Connections w/ Service Upgrades Incl. Meter Box	Main Rplc. Prog.			540
Total Current Estimated Un-metered Connections:				17,242
Install AMR Water Meters:				
(Alternate 1: Install New Water Service)	Units	Unit Cost	Total	
Upgrade Service, Install Box & Meter (Meters Unpaid)	10,948	\$ 1,800	19,706,400	
Purchase and Install Meters (Meters Unpaid)	2,970	\$ 350	1,039,500	
Purchase and Install Meters (Meters Paid)	3,224	\$ 350	1,128,400	
Total Estimated Cost to Meter All Connections			\$	21,874,300
Less Meter Charge to Individual Customers*	13,918	\$ 350	\$	(4,871,300)
Net Costs			\$	17,003,000
Install AMR Water Meters:				
(Alternate 2: Using Existing Service)	Units	Unit Cost	Total	
Use Exist. Service, Install Box & Meter (Meters Unpaid)	10,948	\$ 1,200	13,137,600	
Purchase and Install Meters (Meters Unpaid)	2,970	\$ 350	1,039,500	
Purchase and Install Meters (Meters Paid)	3,224	\$ 350	1,128,400	
Total Estimated Cost to Meter All Connections			\$	15,305,500
Less Meter Charge to Individual Customers*	13,918	\$ 350	\$	(4,871,300)
Net Costs			\$	10,434,200
Annual Cost for Program over:		18 years	\$	580,000

* assumes individual customers will pay meter surcharge for their meter
Final deadline for installation is Jan. 1, 2025

City of Lodi Water Meter Retrofit Program
Policy Questions and Staff Comments/Recommendations
 November, 2005

1. Why are we proposing a water meter retrofit program?

- ◆ *First, this is a State mandate. (See Water Code §527 attached)*

Second, this is the only fair way to allocate costs of providing water service to the City's customers. With the last water rate increase, numerous customers protested the per-bedroom flat-rate scheme currently in place and requested a more equitable billing method. Even without the State mandate, staff would be recommending some form of a meter retrofit program.

2. Implementation Time Frame – Should we retrofit meters all at once or over time?

- ◆ *Staff recommends the City retrofit meters over the full time allowed by the State, which is until Jan. 1, 2025. With approximately 17,000 customers to be metered, this means just under 1,000 services per year. Approximately 3,400 have already paid for a meter and an estimated additional 3,000 have services ready to accept a meter. These installations will cost approximately \$325 each. The remaining 10,000+ services will need to have the service modified to accept a meter at a cost of approximately \$1,200 each, in addition to the meter charge.*

Aside from spreading the cost, another advantage in doing the installations over time is that future replacements will also be staggered rather than create a situation in which 17,000 meters need to be replaced at once.

3. Billing with Commodity Rate – Should we start charging metered customers based on usage or wait until all customers are metered?

- ◆ *Staff recommends we start charging based on usage as meters are installed after the initial "Start Date" (See Question #5). State law requires that any services which have meters, be charged based on usage by January 1, 2010. Since there will be many customers still un-metered by that date, staff does not see any value in delaying.*

4. Cost of Retrofit – Who should pay the cost for installing meters?

- ◆ *Past policy and practice has been that the customer pays the cost of a meter. For new services and with property development, the property owner or developer also pays the cost of installing or upgrading the water main, service, etc. As the City replaces mains and services due to age or other circumstances, the new service is ready for a meter. Staff recommends that this practice continue and that for the meter retrofit program, the Water Utility bear the cost of upgrading the service as meters are installed and the customer pay the cost of the meter, with the development exceptions per current practice and per Question #5.*

5. How will we prioritize who gets a meter sooner rather than later?

- ◆ *Following installation of the 400 "pilot project" meters, analysis of data and review of metered rates versus flat rates, staff recommends the following, assuming an 18-year program with a "Start Date" in mid FY 2006/07:*
 - a) *All new services and upgrades as a result of development, meter and charge immediately upon installation.*

- b) *For customers who have already paid for a meter, start with the newest customers first and work backward to the oldest – this will take approximately 3 years. This would include those customers in the pilot program, as they have already paid for a meter.*
- c) *Next, install meters on services initially installed ready to accept a meter, working subdivision by subdivision, newest to oldest – will take another 3 years. (Note – given the age of these services, many will require some work to reset boxes to make them ready to take a meter.)*
- d) *For all remaining customers – break the City into 12 sub-areas roughly equal in number of customers, establish a priority order based on a random selection, and proceed in that order.*

6. Citizen Requests – What if a customer requests a meter ahead of schedule?

- ◆ *Based on the priority system established in Q #5, the City will have a known priority and estimated year of installation for all customers. For a customer to jump ahead of schedule, staff recommends that they pay the cost of the meter and a prorated amount for the service upgrade based on when they were programmed to receive a meter and when the request is made. For example, if a customer is slated to receive a meter in year 10 of the 18-year program, and wants the meter in year 2, then they would pay 44% of the cost of service upgrade. If they were programmed to receive a meter in the last year of the program and wanted it in the first year, they would pay 100%. (See Table.)*

If a customer has already paid for a meter, but per Question 5 a) is slated to receive a meter in the second or third year, staff recommends we accommodate the request.

7. What about the remaining flat-rate commercial customers?

- ◆ *For purposes of the retrofit policy, the few hundred non-residential customers would be included in the program as if they were a residential customer.*

8. Who decides what size meter gets installed?

- ◆ *The City and the customer should collaborate on the meter size, but the City should have the final say. Larger meters cost more to replace and if too large for the flow, they will under-read which is unfair to the rest of the customers. If a customer needs a larger meter, the customer will need to pay for the larger meter, less a credit for the smaller meter, on a 15-year proration. Our current policy is 5 years.*

9. What happens if a customer requests a meter then later decides they don't want it?

- ◆ *Staff recommends that this program be a one-way deal...there's no going back...*

10. What about buildings with multiple tenants – if the City currently bills each unit, what happens then?

- ◆ *With metered service, there will be one bill for each meter. The owner will need to decide how to handle this cost.*

11. Should there be a grace period for metered charges?

- ◆ *While State law does allow for a one-year "grace" period in which the customer could continue to pay a flat rate while seeing what the metered charge would be,*

the City's billing system is not capable of handling this type of "either/or" billing. To mitigate the possible impact of high bills, staff recommends that for retrofit customers, metered billing be started during the months of October through April when water use is generally lower. For new development, metered billing would start with the new service.

12. How much will individual meters cost?

- ◆ *The current charge for an individual standard size meter, including installation into an existing meter box, is \$325. Future costs will depend on meter prices and installation bids, which may vary. This charge could be reduced or stabilized for the retrofit program, should the Council so desire, which would mean all customers would be helping to defray the cost of the retrofit program as they do for other State mandates.*

13. How does this program fit with the infrastructure replacement program?

- ◆ *They would be handled separately, although the priorities for the replacement program might be affected. The replacement program includes replacement of services when the water main serving the parcel is relocated, typically from a rear-yard easement to the street. That new service is ready for a meter. By creating the priority scheme in Question #5, there is no advantage or disadvantage to the customer for being in one of the replacement areas.*

14. Will customers need to pay the meter cost all at once?

- ◆ *That would be the simplest from an administrative standpoint; however the Council could authorize some mechanism to spread out the cost. Policies regarding interest, incomplete payments, etc., would need to be developed.*

15. When a customer has paid for a meter, can they "take it with them" if they move?

- ◆ *No, the meter is part of the water service for a particular parcel and stays with the parcel.*

Customer Request Proration Table – applies to service upgrade cost only, not meter cost

City of Lodi Water Meter Retrofit Program

Proration for Installation Request (Customer pays % indicated toward service upgrade cost)

Programmed Year:		2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024
Programmed Year #:		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18
Request																			
Year:																			
2007	1	0%	6%	12%	18%	24%	29%	35%	41%	47%	53%	59%	65%	71%	76%	82%	88%	94%	100%
2008	2	-	0%	6%	11%	17%	22%	28%	33%	39%	44%	50%	56%	61%	67%	72%	78%	83%	89%
2009	3	-	-	0%	6%	11%	17%	22%	28%	33%	39%	44%	50%	56%	61%	67%	72%	78%	83%
2010	4	-	-	-	0%	6%	11%	17%	22%	28%	33%	39%	44%	50%	56%	61%	67%	72%	78%
2011	5	-	-	-	-	0%	6%	11%	17%	22%	28%	33%	39%	44%	50%	56%	61%	67%	72%
2012	6	-	-	-	-	-	0%	6%	11%	17%	22%	28%	33%	39%	44%	50%	56%	61%	67%
2013	7	-	-	-	-	-	-	0%	6%	11%	17%	22%	28%	33%	39%	44%	50%	56%	61%
2014	8	-	-	-	-	-	-	-	0%	6%	11%	17%	22%	28%	33%	39%	44%	50%	56%
2015	9	-	-	-	-	-	-	-	-	0%	6%	11%	17%	22%	28%	33%	39%	44%	50%
2016	10	-	-	-	-	-	-	-	-	-	0%	6%	11%	17%	22%	28%	33%	39%	44%
2017	11	-	-	-	-	-	-	-	-	-	-	0%	6%	11%	17%	22%	28%	33%	39%
2018	12	-	-	-	-	-	-	-	-	-	-	-	0%	6%	11%	17%	22%	28%	33%
2019	13	-	-	-	-	-	-	-	-	-	-	-	-	0%	6%	11%	17%	22%	28%
2020	14	-	-	-	-	-	-	-	-	-	-	-	-	-	0%	6%	11%	17%	22%
2021	15	-	-	-	-	-	-	-	-	-	-	-	-	-	-	0%	6%	11%	17%
2022	16	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	0%	6%	11%
2023	17	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	0%	6%
2024	18	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	0%

Examples: Customer programmed to receive meter in 2020 (Year 14 of Program) requests meter in 2010 - Customer pays 56% of service upgrade cost
 Customer programmed to receive meter in 2024 (Last year Program) requests meter in 2012 - Customer pays 67% of service upgrade cost

WATER CODE

SECTION 525-529.5

525. (a) Notwithstanding any other provision of law, every water purveyor who sells, leases, rents, furnishes, or delivers water service to any person shall require, as a condition of new water service on and after January 1, 1992, that a suitable water meter to measure the water service shall be installed on the water service facilities in accordance with this chapter. The cost of installation of the meter shall be paid by the user of the water, and any water purveyor may impose and collect charges for those costs.

(b) Subdivision (a) applies only to potable water.

(c) Subdivision (a) does not apply to a community water system which serves less than 15 service connections used by yearlong residents or regularly serves less than 25 yearlong residents, or a single well which services the water supply of a single-family residential home.

526. (a) Notwithstanding any other provision of law, an urban water supplier that, on or after January 1, 2004, receives water from the federal Central Valley Project under a water service contract or subcontract executed pursuant to Section 485h(c) of Title 43 of the United States Code with the Bureau of Reclamation of the United States Department of the Interior shall do both of the following:

(1) On or before January 1, 2013, install water meters on all service connections to residential and nonagricultural commercial buildings constructed prior to January 1, 1992, located within its service area.

(2) On and after March 1, 2013, or according to the terms of the Central Valley Project water contract in operation, charge customers for water based on the actual volume of deliveries, as measured by a water meter.

(b) An urban water supplier that receives water from the federal Central Valley Project under a water service contract or subcontract described in subdivision (a) may recover the cost of providing services related to the purchase, installation, and operation and maintenance of water meters from rates, fees, or charges.

527. (a) An urban water supplier that is not subject to Section 526 shall do both the following:

(1) Install water meters on all municipal and industrial service connections located within its service area on or before January 1, 2025.

(2) (A) Charge each customer that has a service connection for which a water meter has been installed, based on the actual volume of deliveries, as measured by the water meter, beginning on or before January 1, 2010.

(B) Notwithstanding subparagraph (A), in order to provide customers with experience in volume-based water service charges, an urban water supplier that is subject to this subdivision may delay, for one annual seasonal cycle of water use, the use of meter-based charges for service connections that are being converted from nonvolume-based billing to volume-based billing.

(b) A water purveyor, including an urban water supplier, may recover the cost of providing services related to the purchase, installation, and operation of a water meter from rates, fees, or charges.

528. Notwithstanding Sections 526 and 527, any water purveyor that becomes an urban water supplier on or after January 1, 2005, shall do both the following:

(a) Install water meters on all municipal and industrial service connections located within its service area within 10 years of meeting the definition of urban water supplier.

(b) (1) Charge each customer for which a water meter has been installed, based on the actual volume of water delivered, as measured by the water meter, within five years of meeting the definition of urban water supplier.

(2) Notwithstanding paragraph (1), in order to provide customers with experience in volume-based water service charges, an urban water supplier that is subject to this subdivision may delay, for one annual seasonal cycle of water use, the use of meter-based charges for service connections that are being converted from nonvolume-based billing to volume-based billing.

(c) For the purposes of this article, an "urban water supplier" has the same meaning as that set forth in Section 10617.

529. (a) This article addresses a subject matter of statewide concern.

(b) Subject to subdivision (c), this article supersedes and preempts all enactments, including charter provisions and amendments thereto, and other local action of cities and counties, including charter cities and charter counties, and other local public agencies that conflict with this article.

(c) This article does not supersede or preempt any enactment or other local action that imposes additional or more stringent requirements regarding matters set forth in this article.

529.5. On and after January 1, 2010, any urban water supplier that applies for financial assistance from the state for a wastewater treatment project, a water use efficiency project, or a drinking water treatment project, or for a permit for a new or expanded water supply, shall demonstrate that the applicant meets the requirements of this article.



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Approve “Will Serve” Letter for Potential NCPA Power Plant Project at White Slough Water Pollution Control Facility

MEETING DATE: November 16, 2005

PREPARED BY: Public Works Director

RECOMMENDED ACTION: That the City Council approve preparation of a “Will Serve” letter for a potential NCPA power plant project at the White Slough Water Pollution Control Facility.

BACKGROUND INFORMATION: The Northern California Power Agency (NCPA) currently operates a small (49 MW) power plant located at the City’s White Slough Water Pollution Control Facility (WSWPCF). This plant uses treated water from the City’s facility for cooling and further treats a portion of the water for steam injection into the power turbine.

The City’s site is being evaluated by NCPA for construction of a second, much larger power plant – on the order of 250 MW. While this plant would not use steam injection, it would require substantially more water for cooling, not just because of its size, but its expected operating efficiency would be high enough that the plant would run many more hours throughout the year.

NCPA is conducting a preliminary feasibility analysis for the facility – a decision on lease and other aspects of the project are premature, however, in order to further consider this site, NCPA needs to know if land is available, if the City will make its treated wastewater available to the plant and if we can accept any discharge from the power plant. These three issues are described separately below.

Land – The power plant would occupy up to approximately five acres out of the City’s total of 1,040 acres and would be located on used lands adjacent to the current plant. Staff does not see this as a significant issue.

Water Availability – The proposed plant would use approximately 2.3 million gallons per day (MGD) at the highest days and 1.4 MGD on a typical warm day. Overall annual averages would be lower. The WSWPCF currently processes approximately 6.4 MGD of domestic waste which is discharged to the Delta during fall, winter and spring months. During the summer, this flow, plus roughly 2.1 MGD of industrial waste is used to irrigate the 890 acres of farmland at WSWPCF. While from these figures it appears there is plenty of water available, staff’s preliminary observations are that there would be shortages of irrigation water during the course of the summer if the power plant operated as much as indicated. However, staff also believes these shortfalls could be relatively easy to manage and possibly made up with utilizing some return flow from the plant, pumping shallow groundwater or utilizing our water rights to pumping Delta water. Regardless of the irrigation issue, the reduction in discharge volumes for the rest of the year would be beneficial to Lodi.

APPROVED: _____
Blair King, City Manager

Discharge – The proposed power plant could return approximately 0.5 MGD on the average of "used" cooling water. This water would be higher in Total Dissolved Solids (TDS), roughly three times as high as the treated wastewater (444 milligrams per liter - mg/L). This could be an issue for irrigation, but would certainly be an issue for discharge to the Delta as the current discharge is just below the Delta water quality TDS standard of 450 mg/L. Commingling the higher TDS return flow with the City's discharge would raise the TDS to over 500 mg/L. NCPA has indicated they can proceed with the power plant on a "no return" basis, utilizing heat and evaporation ponds to reduce the return water to solids, thus City staff does not recommend that we accept return cooling water. Domestic waste from the support facilities would be acceptable.

Staff recommends that the City issue a cooling water "Will Serve" letter to NCPA for the proposed project subject to lease terms to be negotiated on a "no return" basis.

FISCAL IMPACT: The property lease and provision of water would be on a market-rate basis and would cover City costs and financial impacts.

FUNDING AVAILABLE: Not applicable.

Richard C. Prima, Jr.
Public Works Director

RCP/pmf

cc: David Dockham, Interim Electric Utility Director
Del Kerlin, Wastewater Treatment Superintendent
Wally Sandelin, City Engineer



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Review Proposed Wastewater Capacity Fee, Provide Direction, and Set Public Hearing for January 4, 2006, to Consider Adoption of the Fee

MEETING DATE: November 16, 2005

PREPARED BY: Public Works Director

RECOMMENDED ACTION: That the City Council review the proposed Wastewater Capacity Fee, provide direction, and set a public hearing for January 4, 2006, to consider adoption of the fee.

BACKGROUND INFORMATION: The proposed amendments to the Municipal Code implement changes to the method wastewater capacity impact fees will be charged to new growth for capacity at the White Slough Water Pollution Control Facility (WSWPCF) and facilities at the Municipal Service Center (MSC). This is a one-time fee on new development or improvements that increase loading on WSWPCF. The actual fee will be adopted by Resolution.

The existing wastewater capacity fee was approved by Council following the expansion of WSWPCF in 1991, as the final step in a series of rate and capacity (connection) fee increases initiated in 1986. The present capacity fee is \$2,099 per sanitary sewer unit (SSU), which is the same as was adopted in 1991. A SSU represents the equivalent demand of a two-bedroom home.

Recently, the plant has undergone two additional capital construction projects, and a third is planned that increased and/or will increase the rated capacity to 8.5 million gallons per day while upgrading the level of treatment to tertiary as required by the plant's Discharge Requirements issued by the Central Valley Regional Water Quality Control Board.

A report, *City of Lodi Wastewater Capacity Fees: Revised Analysis*, prepared for the City by Hilton, Farnkopf & Hobson, LLC, is attached for reference as Exhibit 1. The report presents the results of analysis that assigns the value of past and future capital construction costs to existing and future development in the City. The recommendation is to raise the capacity fee to \$5,115 per SSU. The recommended fee does not include 2% for Art in Public Places.

Capital construction and debt service costs have, in each case, been allocated to new growth and existing customers. In the case of the 1991 improvements (which refinanced the 1989 improvements), 74% is allocated to serve new growth. For the 2003 (Phase I) and 2004 (Phase II) expansions, 26% and 24.2%, respectively, are allocated to new growth. The 2006 (Phase III) expansion is currently in design, and 58.4% is allocated to new growth. The costs attributed to existing Lodi customers are the share attributed to increasing the plant's rated flow capacity using updated State parameters and upgrading the level of treatment provided in response to more stringent State discharge requirements. The capital and debt service costs of facilities serving existing customers are provided by user rates.

As part of this analysis, the City's separate wastewater impact fee, which primarily covers costs for expansion of the MSC, has been rolled into the capacity fee. This was done to simplify the fee system to only have one sewer development fee. The ordinance changes being proposed implement this change. The actual fee, as per the existing City Code, will be set by Resolution.

APPROVED: _____
Blair King, City Manager

Another change in the capacity fee being proposed is that the fee would be adjusted annually on July 1, based on the Engineering News Record 20 Cities Average, as is now done for the other impact fees in January.

As shown in Table 4 of the report, the recommended capacity fee also includes a separate fee, "high-strength connections", which is broken down into flow, BOD, and suspended solids components. With the addition of tertiary treatment this year, the relative weight among these components has shifted with a higher increase for flow than for the other constituents. This relationship is also reflected in treatment costs, and adjustments for the high-strength users service charges are also being recommended:

	<u>Current</u>	<u>Proposed</u>
Flow (per MG, annual basis)	\$1,170.45	\$2,052.00
BOD (per 1,000 lbs., annual basis)	\$572.79	\$338.64
SS (per 1,000 lbs., annual basis)	\$468.23	\$211.73

Finally, the staff recommendation on the capacity does not include a component for the Public Art Program. This recommendation is based on the fact that a significant portion of the proposed fee is for past improvements made at White Slough. These improvement projects were not designated to include public art nor did they contribute to the Public Art Fund. Should the Council wish to include the full Public Art component, the fee should be increased by 2%, from \$5,115 to \$5,217. Another option would be to only include the art component in future projects. Based on the fee components shown in Table 1 of the attached report, and considering the 2006 project, Master Plan and MSC projects, the proportion is half, therefore, a 1% Public Art fee would be appropriate (\$5,115 to \$5,166). The appropriate amount will be included in the program as directed by the Council.

Pending Council direction, staff would bring the ordinance changes to the Council in December for introduction and adoption in January along with the public hearing (the hearing is required to set the fee, not to change the ordinance).

At the conclusion of the public hearing, Council will be requested to adopt the ordinance revising the Municipal Code and adopt the resolution setting the wastewater capacity impact fee.

FISCAL IMPACT: The additional utility revenue from the capacity fee will be significant, but the actual amount will obviously depend on development levels. Revenue in FY 04/05 was \$1.44 million. The change in the service charges for high-strength users, based on current usage, will reduce annual revenue by approximately \$200,000.

FUNDING AVAILABLE: Not applicable.

Richard C. Prima, Jr.
Public Works Director

Prepared by F. Wally Sandelin, City Engineer
RCP/FWS/pmf
Attachment
cc: Interested Parties

HILTON FARNKOPF & HOBSON, LLC
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Walnut Creek
Newport Beach

August 15, 2005

Mr. Richard C. Prima
Director of Public Works
City of Lodi
221 West Pine Street
Lodi, CA 96241-1910

Subject: Wastewater Capacity fees: Revised Analysis

Dear Mr. Prima:

The purpose of this letter is to present the results of our analysis of the City's wastewater capacity fees.

Current Capacity Fees

The City has two sewer development fees that are charged to new connections. The fees are based on either sanitary sewer units (SSUs)¹ or acreage. The fee based on sanitary sewer units is called the "capacity fee" and is intended to recover the cost of treatment and disposal facilities. The current capacity fee is \$2,099 per SSU.

The fee based on acreage is called the "development impact mitigation fee" (DIMF) and is intended to recover the cost of other facilities that are not directly related to treatment or disposal but are still integral with the sewer system, such as the Sewer Fund's share of the corporation yard. The DIMF varies depending on land use, ranging from \$583 per acre for low-density residential development to \$2,035 per acre for high-density

¹ Sanitary sewer units are based on a system of equivalencies specified in Article III., Section 13.12.180 of the Lodi Municipal Code. For residential connections, one SSU equals a two-bedroom residence. A one-bedroom residence equals 0.75 SSUs and each additional bedroom equals 0.25 SSUs. For non-residential SSUs, 30 different parameters are used to establish the number of SSUs, such as the number of seats for restaurants, the number of machines for laundries, the number of students for schools, the number of employees for grocery stores, etc.. For high-strength connections, estimates of flow, BOD, and SS are used.

residential development with other intervening rates for non-residential development. For a typical home with a density of five units per acre, the DIMF is \$116.60.

Capacity Fee Methodology

Capacity fees represent the unit cost of capacity paid by new connections to ensure that they contribute their fair share of capital costs. In calculating capacity fees, it is important to correlate the facilities with the corresponding connections to establish the "nexus" or relationship required by the Mitigation Fee Act.² The unit cost is the ratio of the value of the facilities divided by the corresponding connections. Of the commonly recognized methods for calculating capacity fees, we used the incremental approach, which calculates the unit cost of the growth-related portion of system expansion.

Unlike the City's current capacity fee and DIMF, we do not distinguish between wastewater treatment/disposal facilities and other support facilities like corporation yards, which do not provide capacity *per se*. The City is not unique in differentiating between connection-based and acreage-based components of capacity fees. We are aware of other water and sewer agencies with a similar bifurcation. Although it is possible to distinguish between the two types of facilities, we see no compelling logic to denominate certain facilities by capacity and others by acreage. Hence, we combined all facilities into a single capacity fee that is denominated by connections. This approach is simpler, which may explain why it is more prevalent.

INCREMENTAL COST CALCULATION

Under the incremental cost approach, the cost of expansion attributable to growth is divided by the growth-related capacity to determine the unit cost of growth. Table 1 shows the costs associated with upgrades for existing users and with expansion for new users. The majority of these costs are the debt service on the three outstanding bonds that have been issued and one bond planned for 2006.

The debt service cost includes principal and interest as part of the value of the facilities. Interest is often mistakenly excluded in capacity fee calculations under the misapprehension that double counting will not occur. In other words, it is thought that new connections will pay the interest in both the capacity fee and later through sewer

² Government Code 66000 *et seq.*.

service charges. That reasoning is flawed. New connections will only pay interest on debt service that is not included in the capacity fee. If all of the interest is included in the capacity fee, there should be no need for rate payers to also pay interest costs. It is appropriate to include interest because interest is part of the cost of the facilities in the same way that principal is.

The incremental costs of debt service are allocated to growth based on the portion of capacity that is related to expansion. In the case of the 1991 improvements (which refinanced the 1989 improvements), 74% (2.7 mgd added to 5.8 mgd for a total of 8.5 mgd) was related to growth. The 2003 (Phase I 2003/2004 improvements), 2004 (Phase II 2004/2005 improvements), and 2006 (Phase III 2006/2007 improvements) bonds were allocated based on the expansion related capacity (2.2 mgd added to 6.3 mgd of current flow for a total of 8.5 mgd³) of each of the unit processes included in each of the three phases of improvements. Attachment 1 is included to show the detailed allocations that were performed to derive the growth allocations in Table 1 for the 2003, 2004, and 2006 improvements. The result is an incremental cost of capacity of \$5,115 per connection or SSU.

Table 1. Incremental Cost Calculation

Facilities	Cost	Growth Allocation	Growth Related Cost	Growth Related Capacity (gal)	Growth Related Connections (SSUs)	Cost Per Connection
1991 COP debt service	\$28,065,964	74.0%	\$20,768,813	2,700,000	13,918	\$1,492
2003 COP debt service	\$7,666,354	26.0%	\$1,989,711	2,200,000	11,340	\$175
2004 COP debt service	\$37,376,493	24.2%	\$9,046,845	2,200,000	11,340	\$798
2006 COP debt service	\$50,261,973	58.4%	\$29,364,137	2,200,000	11,340	\$2,589
Subtotal	\$123,370,784		\$61,169,508			\$5,055
Sanitary Sewer Master Plan	\$115,970	100%	\$115,970	2,200,000	11,340	\$10
Public Works Admin. Building	\$373,420	100%	\$373,420	2,200,000	11,340	\$33
Public Works - Storage Facilities	\$187,870	100%	\$187,870	2,200,000	11,340	\$17
Total	\$124,048,044		\$61,846,768			\$5,115

Table 2 shows the derivation of the unit cost of capacity for each loading category (i.e., flow, BOD and SS). The total cost allocated to growth (\$61,846,768) is allocated to each

³³ The 2003 and 2004 bonds pay for facilities that do not add capacity beyond the current 6.8 mgd capacity. These facilities provide tertiary filtration and disinfection. With the 2006 bonds, the capacity will be expanded to 8.5 mgd.

Richard C. Prima

August 15, 2005

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loading category based on the functions associated with each improvement⁴. Each of these three cost categories is then divided by the respective units of capacity to derive the unit cost for each loading category.

Table 2. Functionalized Costs

	Allocations Per Loading Category							
	Flow		BOD		SS			
	Total Cost	Percent	Amount	Percent	Amount	Percent	Amount	
1991 COP debt service	\$20,768,813	40.0%	\$8,307,525	30.0%	\$6,230,644	30.0%	\$	6,230,644
2003 COP debt service	\$1,989,711	10.4%	\$206,096	44.8%	\$891,808	44.8%	\$	891,808
2004 COP debt service	\$9,046,845	57.2%	\$5,171,640	21.4%	\$1,937,603	21.4%		1,937,603
2006 COP debt service	\$29,364,137	58.8%	\$17,277,779	34.1%	\$9,999,355	7.1%		2,087,003
Subtotal	\$61,169,508	50.6%	\$30,963,041	31.2%	\$19,059,409	18.2%		\$11,147,057
Sanitary Sewer Master Plan	\$115,970	50.6%	\$58,702	31.2%	\$36,134	18.2%		\$21,133
Public Works Admin. Building	\$373,420	50.6%	\$189,019	31.2%	\$116,352	18.2%		\$68,049
Public Works - Storage Facilities	\$187,870	50.6%	\$95,097	31.2%	\$58,537	18.2%		\$34,236
Total	\$61,846,768	50.6%	\$31,305,859	31.2%	\$19,270,432	18.2%		\$11,270,476
Units of Capacity and Cost of Capacity Per Loading Category								
Units for each loading category	Gal/day:	2,200,000	mg/l:	285	mg/l:			308
	Mg/day:	2.200	1,000 lb/day:	5.229	1,000 lb/day:			5.644
	Mg/yr:	803.0	1,000 lb/yr:	1,908.5	1,000 lb/yr:			2,087.2
Unit cost per loading category	Per mg/yr:	\$38,986	Per 1,000 lb/yr:	\$10,097	Per 1,000 lb/yr:			\$5,400

To validate the methodology, the unit cost for each loading category are applied to the loadings specific to a residential connection in Table 3. The resulting capacity fee (\$5,118 per residential connection) is virtually identical to the previous capacity fee (\$5,115 per SSU).

Table 3. Residential Capacity Fee

	Flow Component		BOD Component		SS Component	
	Gal/day:	194	mg/l:	243	mg/l:	285
Residential loadings	Mg/yr:	0.0708	1,000 lb/yr:	0.1435	1,000 lb/yr:	0.1683
Cost per loading category	\$	2,761	\$	1,449	\$	909
Flow component	\$	2,760.61				
BOD component	\$	1,448.97				
SS Component	\$	908.83				
	\$	5,118.41				
Fee per SSU	\$	5,114.61				
Rounding error	\$	3.80				

Table 4 summarizes the revised capacity fees and compares them with the existing capacity fees.

⁴ See Attachment 1.

Table 4. Capacity Fee Summary and Comparison

		Capacity Fees	
		Revised	Existing
<u>Residential Connections</u>			
Bedrooms	SSUs		
1	0.75	\$ 3,837	\$ 1,575
2	1.00	\$ 5,115	\$ 2,099
3	1.25	\$ 6,400	\$ 2,627
4	1.50	\$ 7,678	\$ 3,151
5	1.75	\$ 8,955	\$ 3,675
6	2.00	\$ 10,233	\$ 4,200
7	2.25	\$ 11,515	\$ 4,726
<u>Commercial/Moderate Strength Connections</u>			
Per SSU		\$ 5,115	\$ 2,099
<u>High-Strength Connections</u>			
Per MG per year		\$ 38,986	\$ 11,193
Per 1,000 lbs BOD per year		\$ 10,097	\$ 4,611
Per 1,000 lbs SS per year		\$ 5,400	\$ 2,076

The revised capacity fees are greater than the existing capacity fees because of the improvements financed by the 2003, 2004, and 2006 bonds, which total more than twice the improvements included in the existing capacity fees. In addition, cost per million gallons of flow has increased proportionately more than the charges per 1,000 pounds of BOD and SS because of the flow-related function provided by the improvements. Despite this increase, the revised capacity fees are less than the unit cost of capacity for a new plant.⁵

CONCLUSION

We recommend that the City adopt the revised capacity fees described in this report. In addition, we recommend that the City periodically update the capacity fees to reflect revised cost estimates and actual costs incurred. Between periodic updates, we

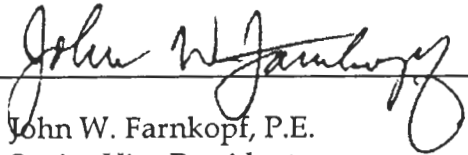
⁵ West Yost & Associates estimated the cost of a new 8.5 mgd plant to be about \$125 million, which with interest costs of financing could cost about \$245 million, yielding a unit cost of \$5,610 per SSU.

Richard C. Prima
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recommend that the City annually escalate the capacity fees using the ENR construction cost index so that the value of the capacity fees does not decline because of inflation. Rate payers are entitled to receive reimbursement based on the current cost of capacity and should not see their investment eroded by inflation.

Very truly yours,

HILTON FARNKOPF & HOBSON, LLC

A handwritten signature in black ink, appearing to read "John W. Farnkopf", is written over a horizontal line.

John W. Farnkopf, P.E.
Senior Vice President

Attachment 1 as noted.

Phase I 2003 Improvements

Blower Improvements

Item	Estimated	Users Served		Allocation to Functional Categories						
	Construction Cost	Existing	New	Flow	BOD	SS	Flow	BOD	SS	Total
Mobilization and contractor indirect costs @ 12%	\$245,000									
Demolition	\$10,000									
Blowers (pre-purchased)	\$300,000									
Blower accessories (cost agreed to in pre-purchase contract)	\$150,000									
Blower installation	\$99,000									
Blower building piping, valves, fittings and appurtenances	\$186,000									
Startup, testing, training	\$19,000									
Electrical service upgrade ^(a)	\$150,000									
Electrical, instrumentation, and controls	\$1,000,000									
Subtotal (rounded)	\$2,160,000									
Estimating Contingency @ 20%	\$430,000									
Subtotal	\$2,590,000									
Engineering and Administration @ 25%	\$650,000									
Construction Contingency @ 10%	\$130,000									
Estimated Construction Cost	\$3,370,000	\$2,500,000	\$870,000	0%	50%	50%	\$ -	\$ 1,685,000	\$ 1,685,000	\$ 3,370,000

* PG&E utility costs not included.

New NCPA Pumping Station & Diversion Structure

Item	Estimated	Users Served								
	Construction Cost	Existing	New	Flow	BOD	SS	Flow	BOD	SS	Total
Mobilization and contractor indirect costs @ 12%	\$30,000									
Excavation	\$3,000									
Sheeting & Shoring	\$10,000									
Concrete Structure	\$32,000									
30" FE Pipe	\$15,000									
Pumps	\$30,000									
Valves and Appurtenances	\$10,000									
Startup, testing, training	\$4,000									
Electrical, instrumentation, and controls	\$65,000									
Subtotal (rounded)	\$200,000									
Estimating Contingency @ 20%	\$40,000									
Subtotal	\$240,000									
Engineering and Administration @ 25%	\$60,000									
Construction Contingency @ 10%	\$12,000									
Estimated Construction Cost	\$312,000	\$230,000	\$82,000	100%	0%	0%	\$ 312,000	\$ -	\$ -	\$ 312,000

Civil Improvements (Levee Construction)

Item	Estimated	Users Served								
	Construction Cost	Existing	New	Flow	BOD	SS	Flow	BOD	SS	Total
Mobilization and contractor indirect costs @ 12%	\$30,000									
Excavation & Loading (5,000 CY @ \$10/CY)	\$50,000									
Hauling (5,000 CY @ \$3.50/CY)	\$25,000									
Engineered Fill (5,000 CY @ \$1.50/CY)	\$7,500									
Paving	\$20,000									
Piping	\$60,000									
Subtotal (rounded)	\$190,000									
Estimating Contingency @ 20%	\$40,000									
Subtotal	\$230,000									
Engineering and Administration @ 25%	\$60,000									
Construction Contingency @ 10%	\$12,000									
Estimated Construction Cost	\$302,000	\$220,000	\$82,000	33%	33%	33%	\$ 100,667	\$ 100,667	\$ 100,667	\$ 302,000
	\$ 3,984,000	\$ 2,950,000	\$ 1,034,000				\$ 412,667	\$ 1,785,667	\$ 1,785,667	\$ 3,984,000

Estimated Total 2003 Construction Cost \$3,984,000
 Estimated 2003 Construction Cost Serving Existing Users \$2,950,000
 Estimated 2003 Construction Cost Serving New Users \$1,034,000
 % Estimated 2003 Construction Cost Serving Existing Users 74.0% To Table 11
 % Estimated 2003 Construction Cost Serving New Users 26.0% To Table 12

10.4% 44.8% 44.8% To Table 11

Phase II 2004 Improvements
Installation of Parkson Panels in 2 Basins

Item	Estimated	Users Served		Allocation to Functional Categories					
	Construction Cost	Existing	New	Flow	BOD	SS	Flow	BOD	SS
Mobilization @ 5%	\$55,000								
Contractor indirect costs @ 12%	\$130,000								
Demolition of existing diffusers/piping	\$5,000								
Purchase aeration panels & appurtenances	\$270,000								
Aeration piping and panel installation	\$350,000								
Baffle wall and mixers	\$85,000								
Startup, testing, training	\$5,000								
Subtotal (rounded)	\$900,000								
Estimating Contingency @ 20%	\$180,000								
Subtotal	\$1,080,000								
Engineering and Administration @ 25%	\$270,000								
Construction Contingency @ 10%	\$54,000								
Estimated Construction Cost	\$1,404,000	\$1,404,000		0%	50%	50%	\$0	\$702,000	\$702,000

Item	Estimated	Users Served							
	Construction Cost	Existing	New						
Tertiary Filtration Improvements (Estimate from Master Plan)	\$11,910,000	\$8,830,000	\$3,080,000	33%	33%	33%	\$3,970,000	\$3,970,000	\$3,970,000
UV Disinfection Facilities (Based on Estimate from Wedeco)	\$8,500,000	\$6,300,000	\$2,200,000	100%			\$8,500,000	\$0	\$0
	\$21,814,000	\$16,534,000	\$5,280,000				\$12,470,000	\$4,672,000	\$4,672,000
							57.2%	21.4%	21.4%

Estimated Total 2004 Construction Cost \$21,814,000
 Estimated 2004 Construction Cost Serving Existing Users \$16,534,000 \$0 0
 Estimated 2004 Construction Cost Serving New Users \$5,280,000
 % Estimated 2004 Construction Cost Serving Existing Users 75.8% To Table 11
 % Estimated 2004 Construction Cost Serving New Users 24.2% To Table 11

Phase III 2006 Improvements

Phase III 2006 Improvements				Allocation to Functional Categories								
Item	Estimated	Users Served		Flow	BOD	SS	Flow		BOD		SS	Total
	Construction Cost	Existing	New									
Influent Screening	\$650,000	\$480,000	\$170,000	50%		50%	\$ 325,000	\$ -	\$ 325,000	\$ -	\$ 650,000	
Headworks Improvements	\$260,000	\$190,000	\$70,000	100%			\$ 260,000	\$ -	\$ -	\$ -	\$ 260,000	
Modify Domestic Pumps	\$210,000	\$160,000	\$50,000	100%			\$ 210,000	\$ -	\$ -	\$ -	\$ 210,000	
Industrial Pumping Improvements	\$360,000	\$360,000		100%			\$ 360,000	\$ -	\$ -	\$ -	\$ 360,000	
2 New Aeration Basins	\$4,440,000		\$4,440,000	50%	50%		\$ 2,220,000	\$ 2,220,000	\$ -	\$ -	\$ 4,440,000	
New Diffusers in Existing Aeration Basins	\$1,080,000	\$1,080,000		50%	50%		\$ 540,000	\$ 540,000	\$ -	\$ -	\$ 1,080,000	
New Secondary Clarifier	\$2,700,000		\$2,700,000	50%	50%		\$ 1,350,000	\$ 1,350,000	\$ -	\$ -	\$ 2,700,000	
RAS/WAS Improvements	\$1,360,000	\$1,090,000	\$270,000	50%	50%		\$ 680,000	\$ 680,000	\$ -	\$ -	\$ 1,360,000	
New Anaerobic Digester	\$1,710,000		\$1,710,000		50%	50%	\$ -	\$ 855,000	\$ 855,000	\$ -	\$ 1,710,000	
Sludge Lagoon Improvements	\$930,000	\$690,000	\$240,000	50%	50%		\$ 465,000	\$ 465,000	\$ -	\$ -	\$ 930,000	
Storage Pond Aeration	\$250,000	\$190,000	\$60,000	50%	50%		\$ 125,000	\$ 125,000	\$ -	\$ -	\$ 250,000	
Control System & Miscellaneous Operational Upgrades	\$460,000	\$340,000	\$120,000	33%	33%	33%	\$ 153,333	\$ 153,333	\$ 153,333	\$ -	\$ 460,000	
Operation Building Improvements	\$150,000	\$110,000	\$40,000	100%			\$ 150,000	\$ -	\$ -	\$ -	\$ 150,000	
100 Ac Wetlands	\$3,000,000	\$2,220,000	\$780,000	100%	0%	0%	\$ 3,000,000	\$ -	\$ -	\$ -	\$ 3,000,000	
Reaeration, Diffuser	\$1,200,000	\$890,000	\$310,000	100%	0%		\$ 1,200,000	\$ -	\$ -	\$ -	\$ 1,200,000	
Subtotal	\$18,760,000	\$7,800,000	\$10,960,000				\$ 11,038,333	\$ 6,388,333	\$ 1,333,333	\$ -	\$ 18,760,000	
							59%	34%	7%		100%	
Contingencies @ 20%	\$3,752,000	\$1,560,000	\$2,192,000				\$ 1,289,767	\$ 746,441	\$ 155,792	\$ -	\$ 2,192,000	
	\$22,512,000	\$9,360,000	\$13,152,000				\$ 12,328,100	\$ 7,134,774	\$ 1,489,126	\$ -	\$ 20,952,000	
							59%	34%	7%	To Table 11		

Estimated Total 2005-6 Construction Cost \$22,512,000
 Est. 2005-6 Construction Cost Serving Existing Users \$9,360,000
 Est. 2005-6 Construction Cost Serving New Users \$13,152,000
 % Est. 2005-6 Construction Cost Serving Exist. Users 41.6%
 % Est. 2005-6 Construction Cost Serving New Users 58.4%

13.12.020 Definitions.

5. "Capacity" or "Impact fee" means a charge as described in this chapter, levied on construction, or on new, expanded or ongoing activity, which uses POTW capacity and other wastewater facilities associated with growth. The fee is normally paid at the time of issuance of a building permit.

45. "Sewage service unit or SSU" is defined as each increment of flow equal to the flow from an average two-bedroom residence (~~two hundred and six~~ one hundred and ninety-four gallons per day) and having a strength less than three hundred milligrams per liter BOD and SS.

13.12.180 Domestic system service charges.

A. Basis. Charges for use of the domestic system shall be determined by the volume, biochemical oxygen demand (BOD) and suspended solids (SS) of wastes discharged. In addition, charges for preparation and maintaining the Sewer Master Plan, expansion of the Public Works Administration Building and expansion of the Public Works Storage Facilities are allocated based upon volume, BOD and SS.

13.12.190 Domestic system capacity or impact fees.

The capacity fee shall cover the capital cost associated with the POTW capacity ~~which will be utilized by the discharger~~ and the planning, financing, acquisition and development of other services and facilities directly related to the utilization of capacity by the discharger. Any actual costs incurred by the city in making the physical connection (tap) shall be separate and in addition to the capacity fee described in this section.

D. The capacity fee shall be paid at the time a building permit is issued and cannot be prepaid.

15.64.010 Findings and purpose.

F. The specific improvements and costs for wastewater capacity impact fees are described in the City of Lodi Wastewater Capacity Fees Analysis prepared for the City by Hilton, Farnkopf & Hobson, LLC, dated August 15, 2005, and the Development Impact Fee Update Study prepared for the City by Harris & Associates, dated October 2001, copies of which are on file with the City Clerk. The calculation of the fee is presented in Title 13, Chapter 13.12 of the Lodi Municipal Code.

G. New development will generate new demand for facilities which must be accommodated by construction of new or expanded facilities. The amount of demand generated and, therefore, the benefit gained, varies according to kind of use. Therefore, a "residential acre equivalent" (RAE) factor was developed to convert the service demand for general plan based land use categories into a ratio of the particular use's rate to the rate associated with a low-density, single-family dwelling gross acre. The council finds that the fee per unit of development is directly proportional to the RAE associated with each particular use.

H. The city has previously approved various development projects which have made significant financial expenditures towards completion, including the payment of the then current development impact mitigation fees; but have not obtained a building permit. The city council finds and declares that such projects should be allowed to proceed without the imposition of new development impact mitigation fees imposed under this chapter. (Ord. 1547 § 1, 1992; 1526 § 1, 1991; Ord. 1518 § 1 (part), 1991)

15.64.030 Development impact funds.

A. The city finance director shall create in the city treasury the following special interest-bearing trust funds into which all amounts collected under this chapter shall be deposited:

1. Water facilities;
2. Sewer facilities:
 - ~~a. General sewer facilities,~~
 - ~~b. Kettleman Lane lift station,~~
 - ~~c. Harney Lane lift station,~~
 - ~~d. Cluff Avenue lift station,~~
3. Storm drainage facilities;
4. Street improvements;
5. Police facilities;
6. Fire facilities;
7. Parks and recreation facilities;
8. General city facilities and program administration.

15.64.060 Calculation of fees.

C. Sewer fees shall be calculated and collected per LMC 13.12.

15.64.070 Residential acre equivalent factor.

B. The residential acre equivalent (RAE) factors are as set out in the following table.

Land Use Categories	Water RAE	Sewer RAE	Storm Drainage RAE	Streets RAE	Police RAE	Fire RAE	Parks & Recreation RAE	General Facilities RAE
RESIDENTIAL								
Low Density	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Medium Density	1.96	1.96	1.00	1.96	1.77	1.96	1.43	1.43
High Density	3.49	3.49	1.00	3.05	4.72	4.32	2.80	2.80
East Side Residential	1.00	1.00	1.00	1.00	1.09	1.10	1.10	1.10
PLANNED RESIDENTIAL								
Low Density	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Medium Density	1.96	1.96	1.00	1.96	1.77	1.96	1.43	1.43
High Density	3.49	3.49	1.00	3.05	4.72	4.32	2.80	2.80
COMMERCIAL								
Retail Commercial	0.64	0.94	1.33	2.08	4.12	2.69	0.32	0.89
Office Commercial	0.64	0.94	1.33	3.27	3.72	2.46	0.54	1.53
INDUSTRIAL								
Light Industrial	0.26	0.42	1.33	2.00	0.30	0.64	0.23	0.64
Heavy Industrial	0.26	0.42	1.33	1.27	0.19	0.61	0.33	0.93

(Ord. 1547 § 3, 1992; Ord. 1518 § 1 (part), 1991)



**CITY OF LODI
COUNCIL COMMUNICATION**

TM

AGENDA TITLE: Approval of Expenses Incurred by Outside Counsel Relative to the Environmental Abatement Program Litigation (\$55,420.03).

MEETING DATE: November 16, 2005 City Council Meeting

PREPARED BY: City Attorney's Office

RECOMMENDED ACTION: That the City Council approve for payment expenses incurred by outside Counsel, Folger, Levin & Kahn, related to the Environmental Abatement Litigation in the total amount of \$55,420.03.

BACKGROUND INFORMATION: Listed below are invoices from the City's outside counsel, Folger, Levin & Kahn for services incurred relative to the Environmental Abatement Program litigation that are currently outstanding and need to be considered for payment.

Matter No.	Invoice No.	Date	Description	Total Amount
8002	90867	09/30/05	People v M&P Investments	\$14,714.88
				(1,306.50)
8003	90871	08/31/05	Hartford Insurance Coverage Litigation	\$9,378.54
8006	90869	08/31/05	Fireman's Fund/Unigard Appeal	\$12,922.18
8008	90868	08/31/05	Envision Law Group	\$19,710.93
				<u>\$55,420.03</u>

FISCAL IMPACT: Expenses to be paid from the Water Account.

FUNDING AVAILABLE: Water: \$55,420.03

Approved: _____
Jim Krueger, Finance Director

D. Stephen Schwabauer, City Attorney

APPROVED: _____
Blair King, City Manager



CITY OF LODI COUNCIL COMMUNICATION

TM

AGENDA TITLE: Ordinance No. 1766 Entitled, "An Ordinance of the Lodi City Council Amending the Official District Map of the City of Lodi and Thereby Rezoning 1380 Westgate Drive (APN 027-420-09) from R-2, Residential Single Family, to PD(37), Planned Development Number 37, for Luca Place"

MEETING DATE: November 16, 2005

PREPARED BY: City Clerk

RECOMMENDED ACTION: Motion waiving reading in full and (following reading by title) adopting the attached Ordinance No. 1766.

BACKGROUND INFORMATION: Ordinance No. 1766 entitled, "An Ordinance of the Lodi City Council Amending the Official District Map of the City of Lodi and Thereby Rezoning 1380 Westgate Drive (APN 027-420-09) from R-2, Residential Single Family, to PD(37), Planned Development Number 37, for Luca Place" was introduced at the regular City Council meeting of November 2, 2005.

ADOPTION: With the exception of urgency ordinances, no ordinance may be passed within five days of its introduction. Two readings are therefore required – one to introduce and a second to adopt the ordinance. Ordinances may only be passed at a regular meeting or at an adjourned regular meeting; except for urgency ordinances, ordinances may not be passed at a special meeting. Id. All ordinances must be read in full either at the time of introduction or at the time of passage, unless a regular motion waiving further reading is adopted by a majority of all council persons present. **Cal. Gov't Code § 36934.**

Ordinances take effect 30 days after their final passage. **Cal. Gov't Code § 36937.**

This ordinance has been approved as to form by the City Attorney.

FISCAL IMPACT: None.

FUNDING AVAILABLE: None required.

Susan J. Blackston
City Clerk

SJB/JMP

Attachment

APPROVED: _____
Blair King, City Manager

ORDINANCE NO. 1766

AN ORDINANCE OF THE LODI CITY COUNCIL AMENDING THE
OFFICIAL DISTRICT MAP OF THE CITY OF LODI AND THEREBY
REZONING 1380 WESTGATE DRIVE (APN 027-420-09) FROM R-2,
RESIDENTIAL SINGLE FAMILY, TO PD(37), PLANNED DEVELOPMENT
NUMBER 37, FOR LUCA PLACE

=====

BE IT ORDAINED BY THE LODI CITY COUNCIL AS FOLLOWS:

Section 1. The Official District Map of the City of Lodi adopted by Title 17 of the Lodi Municipal Code is hereby amended as follows:

2.18 acres located at 1380 Westgate Drive (APN 027-420-09) are hereby rezoned from R-2, Residential Single Family, to PD(37), Planned Development Number 37, as shown on Exhibit "A" attached, which is on file in the office of the City Clerk. (File No. Z-05-02, John Costamagna, Applicant).

Section 2. The Planning Commission adopted Resolution No. P.C. 05-31 recommending approval of this request for a rezone at its meeting of September 28, 2005, following a duly held public hearing, at which appropriate documents and any comments received were reviewed and considered.

Section 3. A Negative Declaration (ND-05-04) has been prepared in compliance with the California Environmental Quality Act of 1970, as amended, and the Guidelines provided thereunder. Further, the Planning Commission has reviewed and considered the information contained in said Negative Declaration with respect to the project identified in their Resolution No. P.C. 05-31.

Section 4 - No Mandatory Duty of Care. This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

Section 5 - Severability. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application. To this end, the provisions of this ordinance are severable. The City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof.

Section 6. The alterations, changes, and amendments of said Official District Map of the City of Lodi herein set forth have been approved by the City Council of this City after duly noticed public hearings held in conformance with provisions of Title 17 of the Lodi Municipal Code and the laws of the State of California applicable thereto at which the City Council reviewed and considered the appropriate documents and any comments received, whether orally or in writing.

Section 7. The City Council has reviewed and considered the Negative Declaration for this project and has adopted same before consideration of this Ordinance.

Section 8. The City Council based on the evidence within the staff report and project file find as follows:

- 1) that the rezone to PD(37) will not adversely affect surrounding properties.

2) that the rezone to PD(37) is consistent with the Lodi General Plan diagram, policies and standards. There is no applicable specific plan for the area.

3) that the property, with a PD(37) zone, will have no adverse effect on wildlife and vegetative habitat.

Section 9. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

Section 10. This ordinance shall be published one time in the "Lodi News-Sentinel," a daily newspaper of general circulation printed and published in the City of Lodi, and shall be in force and take effect thirty days from and after its passage and approval.

Approved this 16th day of November, 2005.

JOHN BECKMAN
Mayor

Attest:

SUSAN J. BLACKSTON
City Clerk

State of California
County of San Joaquin, ss.

I, Susan J. Blackston, City Clerk of the City of Lodi, do hereby certify that Ordinance No. 1766 was introduced at a regular meeting of the City Council of the City of Lodi held November 2, 2005, and was thereafter passed, adopted and ordered to print at a regular meeting of said Council held November 16, 2005, by the following vote:

AYES:	COUNCIL MEMBERS –
NOES:	COUNCIL MEMBERS –
ABSENT:	COUNCIL MEMBERS –
ABSTAIN:	COUNCIL MEMBERS –

I further certify that Ordinance No. 1766 was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.

SUSAN J. BLACKSTON
City Clerk

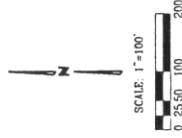
Approved as to Form:

D. STEPHEN SCHWABAUER
City Attorney

SITUS ADDRESS and APN:
1380 WESTGATE DRIVE
LODI, CA 95242
APN: 027-430-09
THIS SITE CONTAINS 2.184 AC.

GENERAL PLAN DESIGNATION: LDR
CURRENT ZONING: R-2
PROPOSED ZONING: PD

- NOTES:**
1. THIS DEVELOPMENT CONTAINS 17 PROPOSED RESIDENTIAL LOTS CONSISTING OF 17 UNITS. TOTAL AREA: 2.184 AC.
 2. DRIVE ACCESS AND MAINTENANCE ELEMENTS FOR PAVING AND LANDSCAPING SHALL BE MAINTAINED BY EACH RESPECTIVE OWNER SHARING IN THE MAINTENANCE.
 3. THE FOLLOWING BUILDING SETBACKS ARE REQUESTED:
GARAGES(Front Yard): 20'-0" FEET(min)
REAR YARD: 10'-0" FEET (min)
SIDE YARD: 5'-0" FEET (min)

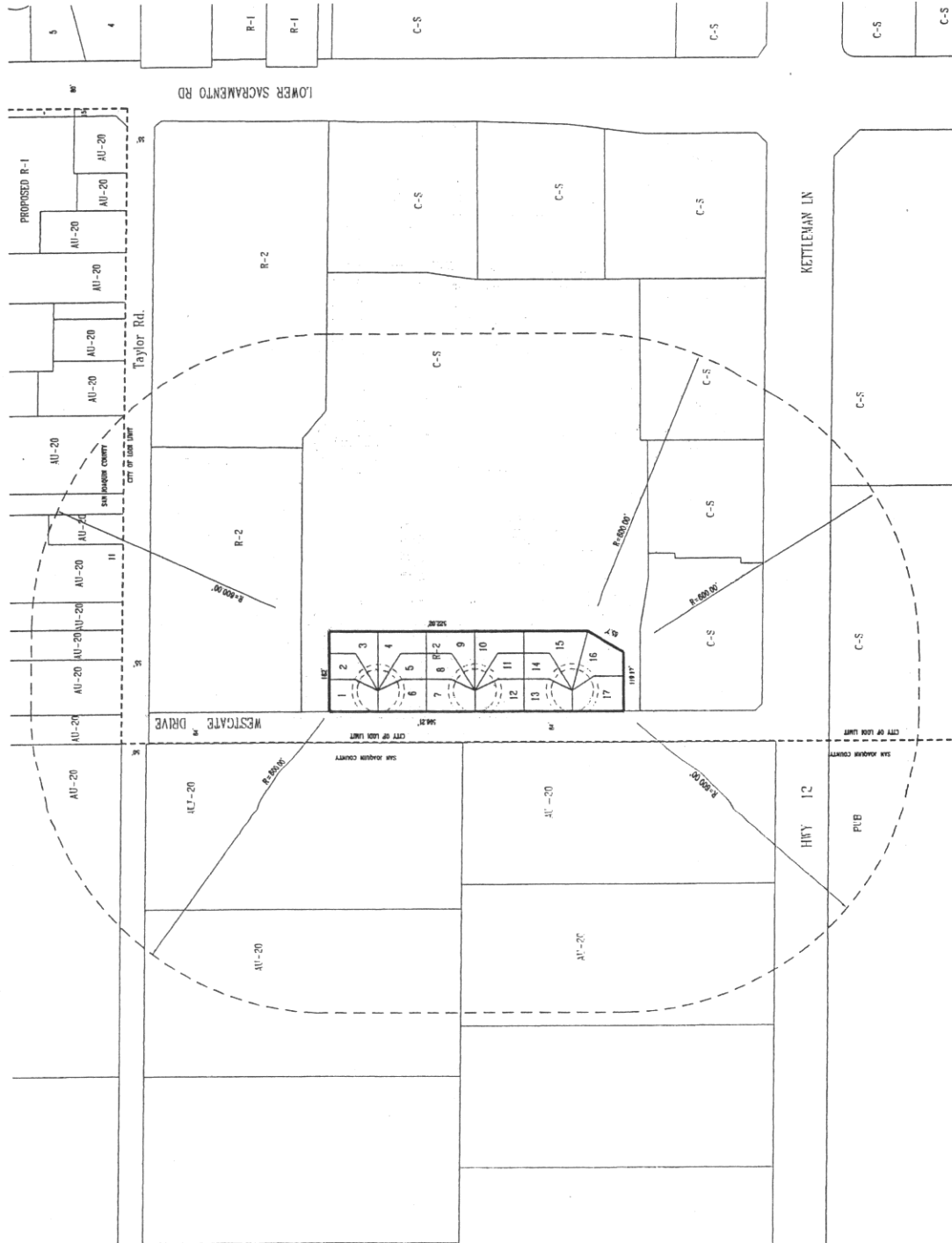


REZONE EXHIBIT
LUCA PLACE

BEING A PORTION OF PARCELS 8 & 9 OF THAT
PARCEL MAP FILED IN BOOK 22 OF PARCEL MAPS, AT PAGE 176
AND BEING A PORTION OF THE SOUTHWEST QUARTER OF
SECTION 10, T.3N., R.6E., M.D.B. & M.
CITY OF LODI, SAN JOAQUIN COUNTY, CALIFORNIA
JULY, 2005 SCALE: 1" = 100'

OWNERS:
G-BEN, INC.
2475 MAGGIO CIRCLE
LODI, CA 95240
(209) 333-4665

APPLICANT/DEVELOPER:
JOHN COSTAMAGNA
P.O. BOX 131
WOODBRIDGE, CA 95258
(209) 712-5130



RECORDS DATE _____ TIME _____ BY _____		SCALE: 1"=100' SHEET: 1 OF 1 DATE: 05/03/09 FILE NO: C-1320
PREPARED FOR: JOHN COSTAMAGNA P.O. BOX 131 WOODBRIDGE, CA 95258 (209) 712-5130		SITE-UTILIZATION MAP 600' RADIUS MAP OF PROJECT 2749 W KETTLEMAN LANE